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ACTS
OF
THE PARLIAMENT
OF
SOUTH AUSTRALIA.

ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO QUINTO VICTORIÆ
REGINÆ, A.D. 1881.



ADELAIDE:
BY AUTHORITY: E. SPILLER, GOVERNMENT PRINTER, NORTH-TERRACE.

1881.

Ans
50
122
881

JAN 21 1908

ABSTRACT INDEX.

NAME OF ACT.	No. of Act.	NAME OF ACT.	No. of Act.
APPROPRIATION	216	MINING COMPANIES	204
BUILDING (CORPORATIONS)	208	MINING COMPANIES AMENDMENT	218
BUILDING SOCIETIES	211	MORPHETT-STREET BRIDGE	222
CHINESE IMMIGRATION	213	MOUNT GAMBIER WATER SUPPLY	199
CIVIL SERVICE AMENDMENT	231	NORTHERN TERRITORY LAND AMENDMENT	220
CONVICTS PREVENTION	206	NORTHERN TERRITORY SETTLEMENT AMENDMENT	224
CONSTITUTION FURTHER AMENDMENT	236	ORNAMENTAL GROUNDS.. .. .	234
CROWN LANDS AMENDMENT.. .. .	235	PATENT ACT AMENDMENT	201
CUSTOMS CONVENTION	196	PARTITION AMENDMENT	203
DESTITUTE PERSONS.. .. .	210	PLACES OF PUBLIC AMUSEMENT	230
EDUCATIONAL LANDS	217	PORT ADELAIDE SWING-BRIDGE	229
ESTATES TAIL	228	POST OFFICE AMENDMENT	214
GOOLWA IMPROVEMENT REVIVAL	198	PROBATE AND SUCCESSION DUTY AMENDMENT.. .. .	225
INEBRIATES (CONSOLIDATION)	238	PUBLIC PURPOSES LOAN	227
INSOLVENCY AMENDMENT	232	RAILWAYS—	
IMPRINT AMENDMENT	209	FARINA AND HERGOTT SPRINGS	226
LANDS CLAUSES CONSOLIDATION AMENDMENT.. .. .	202	MOUNT BARKER AND STRATHALBYN.. .. .	221
LOAN MONEYS TRANSFER	219	TATIARA TO BORDER TOWN	200
LOCAL FORCES AMENDMENT	215	RIGHTS-OF-WAY	223
MANUFACTURING DISTRICTS	212	SUPPLY (No. 1)	197
MARINE BOARD AND NAVIGATION (CONSOLIDATION)	237	SUPPLY (No. 2)	205
METERS AND GAS	233	TELEPHONE	207

PRIVATE ACTS—

ADELAIDE MARINE AND FIRE ASSURANCE COMPANY.
 ADELAIDE AND SUBURBAN TRAMWAY EXTENSION.
 ADELAIDE AND PARKSIDE SOUTH TRAMWAY.
 ADELAIDE AND HINDMARSH TRAMWAYS EXTENSION.
 ADELAIDE AND GOODWOOD TRAMWAY.
 ADELAIDE SYNAGOGUE.
 GLENELG RAILWAY.
 PORT ADELAIDE AND SUBURBAN TRAMWAY SALE.
 TOWN AND COUNTRY BANK.

I N D E X .

- No. 196. An Act to authorise the making of Conventions between South Australia and New South Wales, and arrangements between South Australia and Victoria, with reference to Border Duties, and to amend the Law relating to the Duties of Customs and the mode of Collection thereof, and for other purposes.
[Assented to, January 6th, 1881.]
- No. 197. An Act to apply, out of the General Revenue, the sum of Four Hundred Thousand Pounds to the Service of the Three Months ending the thirtieth day of September, one thousand eight hundred and eighty-one. [Assented to, August 10th, 1881.]
- No. 198. An Act to revive Act No. 11 of 1874, and for other purposes.
[Assented to, August 10th, 1881.]
- No. 199. An Act to authorise the construction of a Reservoir and other works for the purpose of affording a supply of Water to the District of Mount Gambier.
[Assented to, September 28th, 1881.]
- No. 200. An Act to provide for the formation of a Line of Railway from the University Block No. 3, near the southern boundary of Hundred of Tatiara, to Border Town.
[Assented to, September 28th, 1881.]
- No. 201. An Act to amend "The Patent Act, 1877."
[Assented to, September 28th, 1881.]
- No. 202. An Act to amend "The Lands Clauses Consolidation Act," and for other purposes.
[Assented to, September 28th, 1881.]
- No. 203. An Act to amend the Law relating to Partition.
[Assented to, September 28th, 1881.]
- No. 204. An Act for the Incorporation and Winding-up of Mining Companies.
[Assented to, September 28th, 1881.]
- No. 205. An Act to apply, out of the General Revenue, the sum of Four Hundred Thousand Pounds to the Service of the Year ending the thirtieth day of June, one thousand eight hundred and eighty-two. [Assented to, September 28th, 1881.]
- No. 206. An Act to repeal Act No. 14 of 1865-6, intituled "An Act to amend the Convicts Prevention Act, 1865." [Assented to, September 28th, 1881.]
- No. 207. An Act to provide for the establishment of Lines of Telephonic and Telegraphic Communication, and for other purposes. [Assented to, November 18th, 1881.]
- No. 208. An Act for regulating Buildings and Party Walls in the City of Adelaide and other Municipalities. [Assented to, November 18th, 1881.]
- No. 209. An Act to amend the "Imprint Act, 1863."
[Assented to, November 18th, 1881.]
- No. 210. An Act to repeal "The Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872," and to make other provisions in lieu thereof.
[Assented to, November 18th, 1881.]
- No. 211. An Act to amend the Law relating to Building Societies.
[Assented to, November 18th, 1881.]
- No. 212. An Act to authorise the Establishment of Manufacturing Districts, and for other purposes. [Assented to, November 18th, 1881.]
- No. 213. An Act to regulate and restrict Chinese Immigration.
[Assented to, November 18th, 1881.]
- No. 214. An Act to amend "The Post Office Act, 1876."
[Assented to, November 18th, 1881.]
- No. 215. An Act to further amend "The Volunteer Act, 1865-6"; also Act No. 19 of 1866-7; "The Rifle Companies Act, 1878"; and Act No. 169 of 1880.
[Assented to, November 18th, 1881.]
- No. 216. An Act for the Further Appropriation of the Revenue for the Year ended June thirtieth, one thousand eight hundred and eighty-one, and for the General Appropriation of the Revenue for the Year ending June thirtieth, one thousand eight hundred and eighty-two. [Assented to, November 18th, 1881.]
- No. 217. An Act to consolidate and amend the Laws relating to the Dedication and Leasing of Lands granted for Educational Purposes.
[Assented to, November 18th, 1881.]
- No. 218. An Act to amend the "Mining Companies Act, 1881."
[Assented to, November 18th, 1881.]

- No. 219. An Act to authorise the Transfer of certain Loan Moneys.
[Assented to, November 18th, 1881.]
- No. 220. An Act to amend the "Northern Territory Land Amendment Act of 1876," and for other purposes.
[Assented to, November 18th, 1881.]
- No. 221. An Act to provide for the formation of a Line of Railway to Strathalbyn, with a branch from Sandergrove to Milang.
[Assented to, November 18th, 1881.]
- No. 222. An Act to enable the Commissioner of Railways to erect a Bridge over North-terrace and across the Adelaide City and Port Railway at Morphett-street crossing, in the City of Adelaide, and for other purposes.
[Assented to, November 18th, 1881.]
- No. 223. An Act to amend the "Real Property Act, 1861," and for other purposes.
[Assented to, November 18th, 1881.]
- No. 224. An Act to amend Act No. 194 of 1880.
[Assented to, November 18th, 1881.]
- No. 225. An Act to amend "The Probate and Succession Duty Act, 1876."
[Assented to, November 18th, 1881.]
- No. 226. An Act to provide for the formation of a Line of Railway from Farina Town to near Hergott Springs.
[Assented to, November 18th, 1881.]
- No. 227. An Act to provide Funds to the amount of One Million Three Hundred and Nineteen Thousand Eight Hundred Pounds, for various Public Works, and for other purposes.
[Assented to, November 18th, 1881.]
- No. 228. An Act to adopt a certain Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance."
[Assented to, November 18th, 1881.]
- No. 229. An Act to authorise the Removal of a Swing-bridge at present across the Creek at Port Adelaide, and the Construction of another Swing-bridge in lieu thereof, and for other purposes.
[Assented to, November 18th, 1881.]
- No. 230. An Act to License Places of Public Amusement.
[Assented to, November 18th, 1881.]
- No. 231. An Act to amend the "Civil Service Act of 1874."
[Assented to, November 18th, 1881.]
- No. 232. An Act to repeal the "Insolvency Act, 1880," and to amend the Law of Insolvency, and for other purposes.
[Assented to, November 18th, 1881.]
- No. 233. An Act to provide for Regulating the Testing and Stamping of Meters used in the Sale of Gas, and for Testing the Quality of Gas sold, and for other purposes.
[Assented to, November 18th, 1881.]
- No. 234. An Act to make provision for the Protection of certain open spaces or Ornamental Grounds in any City, or Town, or District within the Province of South Australia.
[Assented to, November 18th, 1881.]
- No. 235. An Act to amend the "Crown Lands Consolidation Act," and "The Crown Lands Amendment Act, 1880."
[Assented to, November 18th, 1881.]
- No. 236. An Act to further amend "The Constitution Act."
[Reserved, November 18th, 1881.]
- No. 237. An Act to consolidate and amend the Acts relating to the Marine Board, and to amend the Laws relating to Merchant Shipping and Seamen, and for other purposes.
[Reserved, November 18th, 1881.]
- No. 238. An Act to consolidate and amend the Laws for the Protection, Treatment, and Cure of Inebriates, and for other purposes.
[Assented to, November 18th, 1881.]
- Private Act. An Act to amend an Act intituled "An Act to incorporate a certain Company or Society called 'The Adelaide Marine and Fire Assurance Company,' to limit the liability of the members thereof, and otherwise to regulate and provide for the management of the said Company."
[Assented to, September 28th, 1881.]
- Private Act. An Act to authorise the Adelaide and Suburban Tramway Company, Limited, to construct, maintain, and work Tramways for horse-traction, and other motive power, in and between certain parts of the City of Adelaide and the Townships of Walkerville, Stepney, East Adelaide, and other places adjacent thereto, and in the neighborhood thereof, and for other purposes.
[Assented to, November 18th, 1881.]
- Private Act. An Act to authorise the Parkside Tramway Company, Limited, to construct, maintain, and work a Tramway by horse-traction in and between certain parts of the City of Adelaide and the Townships of Parkside, Fullarton, and Parkside South, and for other purposes.
[Assented to, November 18th, 1881.]
- Private Act. An Act to authorise the Adelaide and Hindmarsh Tramway Company, Limited, to construct, maintain, and work Tramways for horse-traction and steam or other power from the western extremity of Tramway Line No. 7 to New Thebarton, and thence, via Henley Beach, to Tramway Line No. 6, at or near Kirkcaldy Beach, and for other purposes.
[Assented to, November 18th, 1881.]

Private Act. An Act to authorise the construction, maintenance, and working of a Tramway for horse-traction in and between certain parts of the City of Adelaide and the Town of Goodwood, and places suburban thereto, and for other purposes.

[Assented to, November 18th, 1881.]

Private Act. An Act to enable the Trustees of the piece or parcel of land and hereditaments, situate in Rundle-street, in the City of Adelaide, and known as the Adelaide Jewish Synagogue property, by the direction of the members for the time being of the Adelaide Hebrew Congregation, to sell, mortgage, or lease the said piece or parcel of land and hereditaments, and to make provision for the disposal of the proceeds thereof, and to extend the trusts upon which the said piece or parcel of land and hereditaments are held.

[Assented to, November 18th, 1881.]

Private Act. An Act to amalgamate the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, and for other purposes.

[Assented to, November 18th, 1881.]

Private Act. An Act to enable the Liquidators of "The Port Adelaide, Queenstown, Alberton, and Portland Estate Tramway Company, Limited," to sell the said undertaking to William Rendall Cave and John Darling the younger.

[Assented to, November 18th, 1881.]

Private Act. An Act to authorise the Shareholders in a Joint Stock Company or Association, called "The Town and Country Bank, Limited," to carry on the business of Banking in the Province of South Australia, to incorporate such Shareholders under the style or title of "The Town and Country Bank," and to limit their liability.

[Assented to, November 18th, 1881.]



ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 196.

An Act to authorise the making of Conventions between South Australia and New South Wales, and arrangements between South Australia and Victoria, with reference to Border Duties, and to amend the Law relating to the Duties of Customs and the mode of Collection thereof, and for other purposes.

[Assented to, January 6th, 1881.]

WHEREAS at a Conference held at Melbourne, in the months of November and December, one thousand eight hundred and eighty, the following memorandum was agreed to by the duly-accredited representatives of the Governments of South Australia and New South Wales, that is to say—"The representatives of New South Wales and South Australia at this Conference agree that the convention entered into between these colonies, dated the thirtieth day of October, one thousand eight hundred and seventy-eight, and which was terminated on the thirtieth day of June last, shall be brought into operation and continued for a period of three years from the first day of January, one thousand eight hundred and eighty-one, subject to the following modifications, viz. :—That the Colony of South Australia shall increase her duties on imported wines and spirits and on unmanufactured tobacco to the rate now levied in New South Wales, and shall also increase the duty payable on spirits distilled in the colony to two-thirds of that now levied on imported spirits in New South Wales; and that the yearly sum to be received by New South Wales, in lieu of the collection of the duties, shall be Forty-seven Thousand Five Hundred Pounds, payable quarterly": And at the same

Preamble.

Customs Conventions Act.—1881.

same Conference the following memorandum was agreed to by the duly-accredited representatives of the Governments of South Australia and Victoria, that is to say—"The representatives of Victoria and South Australia agree not to collect duties on the border between those colonies, but to institute a system of permits in accordance with the draft agreement submitted by the Victorian Government and printed as a South Australian Parliamentary Paper, No. 130 of 1880": And whereas it is expedient to ratify the said several agreements, and to authorise the making of conventions with New South Wales and arrangements with Victoria, pursuant to such resolutions, and for that purpose to amend the law relating to the imposition and mode of collection of the Duties of Customs, and by reason of the exceptional circumstances to give Legislative sanction to the increased duties already collected, and to indemnify the officers of Customs in manner hereinafter provided—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

PART I.

Two members of Executive may make conventions.

1. Any two Members of the Executive Council, acting for and on behalf of South Australia, may make and enter into conventions with any persons acting for and on behalf of New South Wales, for the purpose of enabling all or any goods, including live-stock, to be imported from South Australia into New South Wales, and from New South Wales into South Australia, across their respective borders or boundaries, without the payment of any Customs Duties or other charges.

Conventions may stipulate for sum to be paid to New South Wales.

2. It may be stipulated by any such convention that during the continuance thereof a certain sum shall be paid by South Australia to New South Wales, and provision may be made for increasing or diminishing the said sum in any specified events.

Stipulations which may be inserted in conventions.

3. Every such convention may contain such stipulations as the persons making the same shall deem desirable for effecting the purposes thereof, and in particular, if the persons making the same shall think fit, may contain provisions similar to those contained in the conventions validated by "The Border Duties Act of 1873," or regulating the like matters.

Period of conventions.

4. Every such convention may be made for a period not exceeding three years from the date thereof, and there may be inserted in any such convention any stipulations enabling either party to determine the convention before the expiration of the period for which the same shall be originally made.

Alteration or determination of conventions.

5. Every such convention may be altered or determined by the Governor, with the consent of any persons acting for and on behalf of New South Wales, but save as aforesaid, or as may be provided for by such convention, no such convention shall be liable to alteration or determination.

6. A

Customs Conventions Act.—1881.

6. A copy of every such convention, and of every alteration thereof, shall be published in the *Government Gazette*, and every such convention, and all alterations thereof, shall have the force of law, and the operation of all laws and regulations in anywise repugnant thereto, so far as the same shall be repugnant thereto, shall be suspended, so long as any such convention, or any alteration thereof, shall continue in force; and the Treasurer of the said province, during the continuance of any such convention, or any alteration thereof, shall pay such sums as may become payable pursuant thereto, in manner appointed thereby, and a copy of every convention made under the authority of this Act shall be laid before both Houses of Parliament, within fourteen days after the same shall have been entered into, if Parliament shall then be in Session, otherwise within fourteen days after the commencement of its next Session.

PART I.

Copy of convention and alterations to be published.

7. In the event of the determination of any such convention, before the expiration of the period for which the same shall be originally made, such determination shall be made known by Proclamation published in the *Government Gazette*.

Determination of convention to be made known by Proclamation.

PART II.

8. The Governor may make any arrangement with the Governor in Council of Victoria to admit of goods being sent thereto from South Australia, by land over the boundary between the said colony and South Australia, without payment of Duties of Customs on their importation into Victoria; and in like manner to admit of goods being brought from Victoria into South Australia, by land over the said boundary, without payment of Duties of Customs on their importation into South Australia. Every such arrangement shall, when published in the *Government Gazette*, have the same effect in law as if a portion of this Act, and shall, within fourteen days of its date, be laid on the tables of both Houses of Parliament, if then in Session, and if not in Session, then within fourteen days after the assembling thereof.

PART II.

Power to make arrangements and regulations for goods crossing the border to and from adjacent colonies without payment of duties.

9. When any person desires to take by land over the boundary between South Australia and Victoria any goods chargeable with duty on their importation into Victoria, any officer in that behalf appointed by the Governor may grant to such person a permit under the provisions of this Act. From and after the date, and throughout the period on and during which any such permit shall entitle the holder thereof to import the goods therein mentioned into Victoria without payment of duty, a permit of a like character granted by any duly appointed officer of Victoria shall entitle the holder thereof to bring into South Australia from Victoria, by land over the said boundary without payment of duty, the goods specified in such permit.

Permits may be granted.

10. No

PART II.

Permits to be produced.

10. No goods shall under the provisions of this part of this Act be admitted into South Australia from Victoria without payment of duty, unless the permit for such goods be produced to any officer of Customs or police in South Australia, who shall at any time demand to see the same.

Record of permits to be made.

11. An exact record of all permits granted by any officer shall be kept by the officer granting them, together with such particulars of the goods in respect of which permits may be granted as any regulations made under the provisions of this Act shall prescribe.

Adjustment of accounts.

12. At such times and in such manner as shall be fixed by any arrangement made under the provisions of this part of this Act an account shall be made up of all goods imported into Victoria and South Australia respectively, under permits as aforesaid, and if it shall appear that the amount of Duties of Customs which would have been chargeable (except for the provisions of this part of this Act) on the goods imported into South Australia under permit from Victoria during the period for which such account is so made up is greater than that on the goods admitted into Victoria under permits from South Australia, then the difference in amounts shall be deemed to be a debt due by the Government of Victoria to South Australia, but if less then the difference shall be deemed to be a debt due by the Government of South Australia to Victoria.

Discretion as to refusal of permits.

13. Any officer vested with the power of granting any such permit shall refuse to grant the same if he shall have cause to believe that such permit is intended to be used for the purpose of forwarding goods across the border between the said two colonies with the intention of taking advantage of the dissimilarity of the respective tariffs of the said colonies, and not for the purposes of *bonâ fide* border trade.

PART III.

Repeal of portion of Act 34 of 1876, and substitution of other duties.

14. The Duties of Customs, authorised by Act No. 34 of 1876, to be raised, levied, collected, and paid in respect of the goods specified in the First Schedule hereto, shall not hereafter be raised, levied, collected, or paid, and in lieu thereof there shall be raised, levied, collected, and paid unto Her Majesty, for the use of the said province and support of the Government thereof, the several Duties of Customs set forth in the Second Schedule hereto.

Indemnity to Collector of Customs.

15. The Collector of Customs and all officers of Customs are hereby indemnified, protected, and held harmless against any action, claim, or damage to which he or they might otherwise have been liable by reason of any refusal to deliver any goods imported into the said province on and after the third day of December, one thousand

Customs Conventions Act.—1881.

thousand eight hundred and eighty, or in bond on that day, without payment of the duties set forth in the Second Schedule hereto, or without payment of the duties authorised to be levied by any Act in force within the said province at the time of the coming into operation of this Act.

PART III.

16. The words—"Note—In all cases where duty is charged at per gallon, one dozen reputed quart bottles will be taken as two gallons, and one dozen reputed pint bottles as one gallon," contained at the end of the Schedule to Act No. 34 of 1876, are hereby repealed, so far as regards any of the goods mentioned in the Second Schedule hereto, without prejudice to any act that may have been done under the authority of such words.

Repeal of part of
Schedule to Act
34 of 1876.

PART IV.**PART IV.**

17. From and after the coming into operation of this Act the duty payable upon all spirits that may be distilled in the said province from grapes, fruit, or wine, shall be Eight Shillings for every gallon in lieu of Six Shillings and Ninepence for every gallon heretofore charged; and "The Distillation Act, 1876," shall hereafter be read and construed as if the words "Eight Shillings" were inserted in the 40th section thereof in lieu of the words "Six Shillings and Ninepence."

Duty on spirits dis-
tilled in the province
to be increased from
six shillings and nine-
pence per gallon to
eight shillings per
gallon.

18. The Collector of Customs and other officers of Customs are hereby indemnified, protected, and held harmless against any action, claim, or damage to which he or they might otherwise have been liable by reason of any refusal to deliver any such spirits in bond on or since the third day of December, one thousand eight hundred and eighty, without payment of the said duty of Eight Shillings for every gallon thereof, or without payment of the duty authorised by "The Distillation Act, 1876."

Indemnity to officers.

PART V.**PART V.**

19. The Governor may make regulations for carrying out the provisions of this Act, and such regulations, when published in the *Government Gazette*, shall have the same effect in law as if they were a portion of this Act and shall be judicially noticed. A copy of all such regulations shall be laid on the tables of the Legislative Council and House of Assembly, if then in Session, within fourteen days of their date, and if not in Session, then within fourteen days of the assembling thereof.

Regulations.

20. Any

*Customs Conventions Act.—1881.***PART V.**

Penalty.

20. Any person who shall contravene any such regulation, shall for every offence forfeit and pay a penalty not exceeding One Hundred Pounds, in addition to any other penalty to which he may by law be liable.

Additional duty to be added to price of goods.

21. Every person who shall on or before the coming into operation of this Act have made or entered into any contract or agreement for the sale or delivery at any time thereafter of any goods whereupon any additional duty shall be payable under the provisions hereof, or for the sale or delivery of any tobacco manufactured in the said province from imported leaf, shall be at liberty to add to the price contracted for so much money as will be equivalent to the additional duty which shall by reason of such provisions have been paid or made payable on such goods, or on such imported leaf tobacco, and shall be entitled by virtue of this Act to be paid the same accordingly by the purchaser of such goods or tobacco, and to sue for and recover the same against such purchaser: Provided that in every case where the price contracted for shall be so added to, it shall be at the option of such purchaser, by notice in writing under his hand to be served on the other party to such contract within fourteen days after the passing of this Act, to declare the contract null and void, and the same shall be null and void accordingly.

Commencement of Act.

22. This Act shall be deemed to have come into operation on the third day of December, one thousand eight hundred and eighty.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES

SCHEDULES.

FIRST SCHEDULE BEFORE REFERRED TO.

<i>Spirits</i> .—Brandy, rum, gin, whisky, geneva, or strong waters of any kind or strength, including spirituous compounds, bitters, cordials, or strong waters sweetened or mixed with any article not exceeding the strength of proof by Sykes's hydrometer, and so on in proportion for any greater strength than the strength of proof			per gallon	10s.
"	Methylated.....	"		3d.
<i>Tobacco</i> —Unmanufactured			per lb.	9d.
<i>Wine</i> —Sparkling			per gallon	6s.
"	Other.....	"		4s.

SECOND SCHEDULE REFERRED TO.

	£	s.	d.
On all kinds of spirits, the strength of which can be ascertained by Sykes's hydrometer—the proof gallon	0	12	0
On all spirits and spirituous compounds, the strength of which cannot be ascertained by Sykes's hydrometer—the liquid gallon	0	12	0
On spirits methylated—per gallon.....	0	2	0
Tobacco—Unmanufactured—per lb.....	0	1	0
On all sparkling wines—per gallon	0	10	0
On all other kinds of wines—per gallon	0	5	0



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 197.

An Act to apply, out of the General Revenue, the sum of Four Hundred Thousand Pounds to the Service of the Three Months ending the Thirtieth day of September, one thousand eight hundred and eighty-one.

[*Assented to, August 10th, 1881.*]

BE it Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. Out of the General Revenue of the said province there shall be issued and applied, from time to time, for the service of the three months ending the thirtieth day of September, one thousand eight hundred and eighty-one, any sums of money not exceeding in the whole the sum of Four Hundred Thousand Pounds: Provided that no payments for any establishment or service be made in excess of the rates voted for similar establishments or services on the Estimates for the year ended the thirtieth day of June, one thousand eight hundred and eighty-one, except so far as such rates are modified by the Civil Service Act, 1874.

Issue and application
of £400,000.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 198.

An Act to revive Act No. 11 of 1874, and for other
purposes.

[Assented to August 10th, 1881.]

WHEREAS it is deemed expedient to extend the time limited in Preamble.
Act No. 11 of 1874, namely, The Port Goolwa Improve-
ment Act—Be it therefore Enacted, by the Governor of the
Province of South Australia, with the advice and consent of the
Legislative Council and House of Assembly of the said province, in
this present Parliament assembled as follows:

1. Line four of section 1x. of the said Act shall read as if the Amendment of
clause ix. of Act 11 of
1874.
word "Ten" were substituted for the word "Three," and line
eleven of the same section of the said Act shall read as if the word
"Twelve" were substituted for the word "Five."

In the name and on behalf of Her Majesty, I hereby assent
to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 199.

An Act to authorise the construction of a Reservoir and
other works for the purpose of affording a supply
of Water to the District of Mount Gambier.

[Assented to, September 28th, 1881.]

WHEREAS it is desirable to authorise the construction of a Preamble.
reservoir and other works for the purpose of affording a
supply of water to the District of Mount Gambier, according as the
said district is defined in the Schedule A hereto: and whereas certain
portions of the land intended to be used for such purpose have been
already dedicated for public purposes: and whereas plans and
sections showing the source of supply, and the said reservoir and
other works, and the direction of the main and branch pipes, and
the streets or grounds through which they are to be laid, and also
books of reference containing the names of the owners and occupiers,
or reputed owners or occupiers (so far as known) of any private
lands through which any of the said works will pass, have been
deposited in the office of the Surveyor-General, at Adelaide—Be it
therefore Enacted by the Governor of the Province of South Aus-
tralia, with the advice and consent of the Legislative Council and
House of Assembly of the said province, in this present Parliament
assembled, as follows:

1. The Commissioner of Waterworks may construct, out of any
moneys which have been or hereafter may be voted by Parliament
for such purpose, the reservoir and other works in accordance with
the plans and sections deposited as aforesaid in the office of the
Surveyor-General, at Adelaide.

Commissioner of
Waterworks may
construct reservoir
and other works.

Mount Gambier Waterworks Act.—1881.

Commissioner may take possession of lands described in Schedule B.

2. For the purposes of such reservoir and other works the Commissioner of Waterworks may enter upon and take possession of those lands heretofore dedicated for other public purposes, notwithstanding such dedication which are described in the Schedule B hereto.

Errors and omissions in plans, &c., may be corrected by Justices, &c.

3. If any error, omission, misstatement, or wrong description shall have been made of any lands or streams, or of the owners or occupiers, or reputed owners or occupiers, of any lands or streams, delineated or shown on the said plans or sections, or described in the book of reference deposited as aforesaid, the Commissioner of Waterworks, after giving ten days' notice to the owners or occupiers, or reputed owners or occupiers, of the lands or streams affected or likely to be affected by the correction of such error, omission, misstatement, or wrong description, may apply to any two Justices to correct the same; and if it shall appear to such Justices that it is expedient and not unjust to correct such error, omission, misstatement, or wrong description, they shall give the said Commissioner a certificate in such form as they shall think proper, and shall in such certificate state the particulars of any such error, omission, misstatement, or wrong description, and such certificate, with the documents to which it refers, shall be deposited, with the other documents to which they refer, in the office of the Surveyor-General, and thereupon such plans, sections, or books of reference shall be deemed to be corrected according to such certificate, and the said Commissioner may make, complete, extend, and maintain the works hereby authorised in accordance with such certificate as if such error, omission, misstatement, or wrong description had not been made.

Surveyor-General to keep plans, &c.

4. The Surveyor-General shall keep the said plans and sections and books of reference, and all other documents deposited with him for the purposes of this Act, and shall allow all persons interested to inspect any of the documents aforesaid, and to make copies of and from the same.

Incorporation.

5. Except so far as the same are inconsistent with or altered by this Act, "The Adelaide City, Port, and Suburban Waterworks Act," "The Lands Clauses Consolidation Act," and an Act, No. 26 of 1855-6, "To amend the 'Lands Clauses Consolidation Act,'" shall be incorporated herewith, and for the purposes of this Act the expression "The Promoters of the Undertaking," whenever used in "The Lands Clauses Consolidation Act," shall mean the Commissioner of Waterworks, and the words "Special Act" shall mean this Act.

Interpretation.

6. In the construction of and for the purposes of this Act, and "The Adelaide City, Port, and Suburban Waterworks Act," when not inconsistent with the context, the expression the "undertaking" shall, in addition to the meaning assigned thereto by the said "The Adelaide City, Port, and Suburban Waterworks Act," mean and include

Mount Gambier Waterworks Act.—1881.

include the reservoir and all other works hereby authorised to be constructed; the expression lands and streams shall, in addition to the meaning assigned thereto by the said Act, mean and include the lands and streams of water hereby authorised to be taken or used for the purposes hereof, and the expression "water area" shall, in addition to the meaning assigned thereto by the said Act, mean and include the District of Mount Gambier, according as the same is defined in the Schedule A hereto.

7. This Act may be for all purposes cited as the "Mount Gambier Short Title. Waterworks Act, 1881."

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

Mount Gambier Waterworks Act.—1881.

SCHEDULE A.

Comprising the whole of sections 7, 8, 9, 10, 16, 420, 425, 426, 1100, 1101, 1102, and 1103, in the Hundred of Blanche, and bounded as follows:—On the north-east by the south-western side of road north-east of sections 8 and 9; on the south-east by the north-western boundaries of sections 14, 13, and 15; on the south-west by the north-eastern side of road south-west of sections 16, 425, 426, and 420; and on the north-west by the south-eastern boundaries of sections 11, 12, and 419.

SCHEDULE B.

Comprising all that portion of the Hundred of Blanche, south-west of a line 100 links south-west of and parallel to the south-western boundaries of sections 83, 82, 81, 80, 79, 78, and 77; west of a line 100 links west of and parallel to the western boundary of section 478; north of road north of section 545; north-east of a line bearing north-west from the north-west corner of said section to its intersection with the eastern side of the main road from MacDonnell Bay to Mount Gambier and east of main road aforesaid.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 200.

An Act to provide for the formation of a Line of Railway
from the University Block No. 3, near the south-
ern boundary of Hundred of Tatiara, to Border
Town.

[Assented to, September 28th, 1881.]

WHEREAS it is expedient to provide for the extension and Preamble.
construction of a Line of Railway from the University Block
No. 3, near the southern boundary of Hundred of Tatiara, to Border
Town: And whereas plans of the proposed Railway, showing the line
thereof, together with the book of reference thereto, have been duly
prepared and deposited in the offices of the Surveyor-General, at
Adelaide, and signed "H. C. Mais, Engineer-in-Chief"—Be it there-
fore Enacted by the Governor of the Province of South Australia, with
the advice and consent of the Legislative Council and House of
Assembly of the said province, in this present Parliament assembled,
as follows:

1. "The Lands Clauses Consolidation Act," and an Act, No. 26 Incorporation.
of 1855-6, to amend "The Lands Clauses Consolidation Act," and
"The Railways Clauses Consolidation Act," and an Act, No. 6 of
1858, to amend "The Railways Clauses Consolidation Act," and all
other Acts passed, or hereafter to be passed, amending the said
"Railways Clauses Consolidation Act," or "Lands Clauses Con-
solidation Acts," so far as the same are severally applicable to
this Act, shall be incorporated therewith, and the said Acts shall
be read and construed together accordingly.

2. The Commissioner of Railways, hereinafter called "The said Power to make Rail-
way.
Commissioner," may make and maintain a line of railway, from
the University Block No. 3, near southern boundary of Hundred of
Tatiara,

Tatiara to Border Town Railway Act.—1881.

Tatiara, to Border Town, together with all proper works and conveniences connected therewith, as the same is delineated in the said plans so deposited at the offices of the Surveyor-General, at Adelaide, as aforesaid, or as may be delineated in any plans which may hereafter be so deposited, pursuant to any law for the time being in force respecting such deposit of the said plans.

Gauge.

3. The gauge of the said railway shall be three feet six inches, and the rails to be used in the construction thereof shall be of steel, and of the weight of not less than fifty-one pounds to the yard.

Powers of Commissioner.

4. The said Commissioner may demand any tolls for the use of the said railway, not exceeding the following, that is to say—

Tolls.

i. In respect of the tonnage of all articles conveyed upon the said railway, or any part thereof not in this Act otherwise particularly specified, the rate of Ninepence per ton per mile:

For wool, measurement goods, fruit, and furniture, One Shilling per ton per mile:

For every description of carriage, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, One Shilling and Threepence per mile; and for any ton or fractional part of a ton beyond one ton which any carriage may weigh, Eightpence per mile.

Tolls for passengers and cattle.

ii. In respect of passengers and animals conveyed upon the said railway in carriages, whether belonging to the said Commissioner or otherwise, as follows—

For every person conveyed in or upon any such carriage, being a first-class carriage, or compartment of a carriage, Fourpence per mile:

For every person conveyed in a second-class carriage or compartment, Threepence per mile:

For every horse, mule, ass, or other beast of draught or burden conveyed upon the said railway, Sixpence per mile; and for every ox, cow, bull, or neat cattle so conveyed, Twopence per mile:

For every calf, sheep, lamb, pig, or other small animal conveyed in or upon the said railway, One Halfpenny per mile:

Provided always, that for every fraction of a mile a full mile may be charged, and that for any shorter distance than three miles, three miles may be charged.

Tolls to include use of motive power.

5. In the said tolls shall be included the toll for the use of the carriages, and of the engines or other means used for propelling

Tatiara to Border Town Railway Act.—1881.

ling the carriages on the said railway, and no further charge than is heretofore stated shall be made therefor: Provided that nothing herein contained shall be construed to prevent an extra charge being made for the use of engines and carriages for special and express trains: Provided also that nothing herein contained shall preclude private individuals from contracting with the said Commissioner for permission to use their own trucks or carriages upon the said railway.

6. In addition to the prescribed tolls for the conveyance of articles, the said Commissioner may charge a reasonable sum for loading and unloading: Provided always that the owners of goods shall be at liberty to employ their own servants for loading and unloading, subject to the regulations in force for the time being for the working of the said railway.

Regulations as to
tolls.

7. The weight of all articles, except stone and timber, shall be determined according to the usual avoirdupois weight; with respect to stone and timber, fourteen cubic feet of stone, and forty cubic feet of hard wood, and fifty cubic feet of other timber, shall be deemed one ton weight, and so on in proportion for any smaller quantity: Provided that any less quantity than half a ton may be charged as half a ton.

Weight—how deter-
mined.

8. Notwithstanding the rate of tolls hereinbefore prescribed, the said Commissioner may lawfully demand the tolls following, for small packages and single articles of no great weight, that is to say—

Tolls for separate
parcels.

For the carriage of any parcel not exceeding twenty-eight pounds in weight, not exceeding One Penny per mile each:

For any parcel not exceeding fifty-six pounds in weight, not exceeding Three Halfpence per mile each.

For any parcel not exceeding one hundred and twelve pounds in weight, not exceeding Twopence per mile each; and not exceeding One Penny per mile each for every additional fifty-six pounds in weight:

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which shall exceed four tons, the said Commissioner may demand such sum as he shall think fit:

Provided that articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but such term shall apply only to single parcels in separate packages.

9. In all cases where any article, matter, or thing, not being a small package, shall be carried or conveyed along the said railway for so short a distance that the sum of money authorised by this Act to

Fixed sum per ton for
short distances.

Tatiara to Border Town Railway Act.—1881.

to be demanded or received for the same shall not amount to the sum of Three Shillings per ton, the sum to be paid in respect to the carriage thereof shall be Three Shillings per ton.

Goods, when to be removed.

10. Owners or consignees of articles shall remove the same from the station or terminus of their destination on the said railway within twelve working hours after their arrival there, unless such arrival shall be between the hours of four in the evening and seven in the morning, and in that case every such removal shall be made within six hours after such hour in the morning, and in default of such removal shall be liable to demurrage at and after the rate of Two Shillings and Sixpence per ton; and further, if not removed after the expiration of twenty-four hours, at and after the rate of One Shilling per ton for every twenty-four hours or any part thereof: Provided, nevertheless, that if such articles be not removed from such station or terminus of their destination before the end of one week after their arrival there, the sum of Two Shillings and Sixpence per ton per week shall be charged and payable in respect of such goods for the warehouse-room thereof.

Passengers' luggage.

11. Every passenger travelling upon the said railway may take with him his ordinary luggage, not exceeding one hundred pounds in weight for first-class passengers, and sixty pounds in weight for other passengers, without any charge being made for carriage thereof.

Appropriation of tolls, &c.

12. All tolls, rents, dues, charges, and sums of money which may at any time be received and levied under authority hereof, and all rents to arise from any lease of the said railway, shall be, from time to time, in such manner as the Governor may prescribe, paid to the Treasurer for the public purposes of the said province.

Annual abstract of accounts to be published.

13. The said Commissioner shall, on or before the first day of August in every year, prepare an annual account in abstract of the total receipts and expenditure under authority hereof for the railway by this Act authorised to be constructed, from what source soever the same may be derived, for and during the preceding year ending the thirtieth day of June, under the several distinct heads of receipt and expenditure, with a statement of the balance of the same account duly audited and certified by the Treasurer, and also by the Auditor-General, and a copy of such account shall be published in the *Government Gazette*.

Exemption from rates.

14. The railway by this Act authorised to be constructed, shall be, and is hereby declared to be, exempt from all rates and taxes whatsoever, whether local or general.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 201.

An Act to amend "The Patent Act, 1877."

[*Assented to, September 28th, 1881.*]

WHEREAS it is desirable to amend "The Patent Act, 1877," Preamble.
by affording greater facilities for the obtaining of patents—
Be it therefore Enacted by the Governor of the Province of South
Australia, with the advice and consent of the Legislative Council
and House of Assembly of the said province, in this present Parlia-
ment assembled, as follows:

1. This Act may be for all purposes cited as "The Patent Act Short title.
Amendment Act, 1881."

2. This Act and "The Patent Act, 1877," except so far as the Incorporation.
same is altered by this Act, shall be incorporated and read and
construed together.

3. Every petition for a patent shall be addressed to the Com- Petition for Patent.
missioner, and shall be accompanied by a declaration by the applicant,
or his duly authorised attorney or agent, that the several allegations
contained in the petition are true, and stating that the person making
the declaration verily believes that the inventor mentioned in the
petition is the true and first inventor of the invention for which
the patent is sought.

4. For the purposes of section 16 of the said Act, it shall be Requisites of
specifications.
sufficient, whether the inventor be alive or not, if the specification
therein mentioned be signed by the applicant, or his duly autho-
rised

The Patent Act Amendment Act.—1881.

rised attorney or agent, and if such signature be attested as provided in the said section.

Exhibiting patent not
to be deemed ground
for refusing patent.

5. The mere fact of any inventor having exhibited or tested his invention, either publicly or privately, shall not in itself be deemed any ground for refusing him a patent, or justify any other person in using such invention, provided that such exhibiting must have been within six months of the date of the inventor filing his petition for a patent.

Schedule of fees.

6. The fees mentioned in the Schedule of this Act shall be paid in respect to the several matters and things therein respectively referred to, in lieu of the fees mentioned in Schedule B of the Patent Act, 1877. Such fees shall form part of the General Revenue of the said province, and be paid, applied, and disposed of accordingly.

Repeal.

7. Section 14 of the said Act is hereby repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULE

The Patent Act Amendment Act.—1881.

SCHEDULE.

Fees to be paid in respect of the several matters hereunder specified :—

	£	s.	d.
On filing every petition	2	10	0
On grant of patent	1	1	0
On every patent before the expiration of three years from its date	2	10	0
And before the expiration of seven years	2	10	0
For taking any declaration	0	2	6
For every certificate of filing	0	2	6
On filing every amended or substituted specification	1	0	0
On lodging objections against grant of patent	0	10	6
On every summons to witnesses	0	5	0
On hearing of every opposed application	1	0	0
On filing duplicate patent	0	5	0
On extension of patent	20	0	0
On granting new patent under Part V.	10	0	0
On filing every disclaimer or memorandum of alteration	2	10	0
On confirmation of invalid patent	50	0	0
On filing caveat under Part VI.	1	0	0
On amending any caveat	0	10	6
For every office copy (including the seal) per folio of 72 words ..	0	0	6
On filing every certificate voiding a patent	0	5	0
On deposit of any assignment of patent	1	0	0
On every search, including inspection	0	2	6
Annual fee for licence to patent agent	5	0	0



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 202.

An Act to amend "The Lands Clauses Consolidation Act,"
and for other purposes.

[*Assented to, September 28th, 1881.*]

WHEREAS it is expedient to amend "The Lands Clauses Con- Preamble.
solidation Act" and to extend the powers and provisions
thereof—Be it therefore Enacted by the Governor of the Province
of South Australia, with the advice and consent of the Legislative
Council and House of Assembly of the said province, in this present
Parliament assembled, as follows:

PRELIMINARY.

1. This Act may be cited for all purposes as the "Lands Clauses Consolidation Amendment Act, 1881," and this Act and Short Title and
"The Lands Clauses Consolidation Act" shall be read, incorporated, incorporation.
and construed as one Act.

2. This Act and the provisions thereof shall apply to every Act to apply to every
undertaking heretofore authorised or hereafter to be authorised by undertaking.
any Act.

3. Section 13 of "The Railways Clauses Act, 1876," is hereby Repeal of section 13
repealed, save as to any right to compensation acquired thereunder of "The Railways
at the date of the passing of this Act. Clauses Act, 1876."

4. In so far as any word or expression used in this Act Interpretation of
has any special meaning assigned to it by "The Lands Clauses certain words or
Consolidation Act," or "The Railways Clauses Consolidation Act," expressions.
or

Lands Clauses Consolidation Amendment Act.—1881.

The word "lands"
to include easements.

or any Act amending or incorporating the aforesaid Acts, each such word or expression shall in this Act have the meaning so assigned to it; and the word "lands," used in the said Acts, shall, in addition to the meaning ascribed thereto in the said Acts, extend to and include any easements, rights, or privileges in, under, over, or affecting any lands.

HEARING OF CASES OF COMPENSATION UNDER THE LANDS CLAUSES CONSOLIDATION ACT.

Power for promoters
or claimant to apply
to a Judge of the
Supreme Court for an
order for the trial of
compensation cases
under the Lands
Clauses Consolidation
Act.

5. Whenever, in the case of any lands purchased or taken otherwise than by agreement for the purpose of any undertaking, any question of compensation in respect thereof, or any question of compensation in respect of lands injuriously affected by the execution of the works, is under the provisions of "The Lands Clauses Consolidation Act" to be settled by the verdict of a jury or by arbitration, as in the said Act mentioned, the promoters of the undertaking or the parties claiming compensation may, at any time before the issuing by the promoters of the undertaking to the Sheriff of their warrant, as by the said Acts provided, or the appointment by the promoters of the undertaking of their arbitrator, as by the said Acts directed, apply by summons to a Judge of the Supreme Court, who shall, if he think fit, make an order for trial of the question between the party claiming compensation and the promoters of the undertaking, in the Supreme Court, in such one of the modes of trial prescribed by the Supreme Court Act, 1878, and upon such terms and in such manner as to him shall seem fit, and the mode of trial so ordered shall be in lieu of, and in substitution for, any other mode of settling such questions.

Issue to be made up.

6. Whenever a Judge of the Supreme Court shall, under the preceding section, order any question of compensation to be tried before the said Court, the question between the party claiming compensation and the promoters of the undertaking shall be stated in an issue to be settled, in case of difference, by the Judge.

Issue to be set down
and tried.

7. The issue when made up under the preceding section shall be entered at the Supreme Court with the Master thereof for trial, and shall be tried in the mode directed by the Judge, at the next Civil Sittings of the Supreme Court to take place after the expiration of fourteen days from the entry of such issue, or at such other time as the Judge may direct.

Proceedings.

8. The proceedings in respect of such issue, and the verdict and judgment thereon, shall be under and subject to the control and jurisdiction of the Supreme Court as in ordinary actions therein; but so, nevertheless, that in all cases where the issue relates to the value of the lands to be purchased and also to compensation claimed for injury done or to be done to lands held therewith, the verdict shall be delivered separately in manner provided by the forty-ninth section of "The Lands Clauses Consolidation Act."

9. The

Lands Clauses Consolidation Amendment Act.—1881.

9. The attendance of witnesses to give evidence on the trial of any such issue may be enforced by subpœna issued out of and under the seal of the Supreme Court as in ordinary actions; and in any such issue the party claiming compensation shall be deemed to be the plaintiff, and the promoters of the undertaking, the defendants, and shall be so described in all proceedings, and each party shall have all the rights and privileges of a plaintiff or defendant respectively as in the case of an ordinary action tried under the provisions of the "Supreme Court Act, 1878."

Enforcing attendance of witnesses.

Rights and privileges of parties.

10. The verdict and judgment upon any issue tried under the provisions of this Act shall, as regards costs and every other matter incident to or consequent thereon, have the same operation and be entitled to the same effect as if that verdict and judgment had been the verdict of a jury and the judgment of a Judge, Commissioner, or Sheriff upon an inquiry conducted upon a warrant to the Sheriff issued by the promoters of the undertaking under "The Lands Clauses Consolidation Act."

Effect of verdict of jury and judgment of the Court.

11. Whenever the promoters of the undertaking are called upon or liable under the provisions of "The Lands Clauses Consolidation Act" to issue their warrant to the Sheriff in case of any disputed compensation, and the promoters shall obtain a Judge's order under section 5 of this Act, the obtaining of such order and notice thereof to the opposite party shall be a satisfaction of the promoters' duty in respect of the issue of the warrant and in respect of the appointment of an arbitrator.

Obtaining order for trial to be satisfaction of duty in respect of the issuing of the warrant and appointment of arbitrator.

COSTS OF ARBITRATIONS.

12. Whenever, under "The Lands Clauses Consolidation Act," or any Act incorporating the same, any question of disputed compensation is determined by arbitration, the costs of and incidental to the arbitration and award shall, if either party so requires, be taxed and settled as between the parties by the Master of the Supreme Court; and such fees may be taken in respect of taxation as may be fixed in pursuance of the enactments relating to the fees to be demanded and taken in the office of the Supreme Court.

Costs of arbitrations, where either party so requires, to be settled by Master of the Supreme Court.

VALUATION OF LANDS REQUIRED FOR UNDERTAKINGS.

13. In determining or assessing the amount of compensation under "The Lands Clauses Consolidation Act," to be paid by the promoters of any undertaking for lands taken by them for the purposes of such undertaking and for severance (if any), regard shall be had only to the value of such lands twelve months prior to the passing of the special Act authorising the carrying out of the undertaking; or if there shall be no such special Act, then to the value of

Basis of assessing compensation for lands taken, and for severance.

Lands Clauses Consolidation Amendment Act.—1881.

of such lands twelve months prior to the giving by the promoters of the undertaking of a notice of their intention to take such lands for the purposes of the undertaking, together with, in either case, the actual value of any improvements *bonâ fide* made during the said period of twelve months. Should such promoters fail to take possession or pay the compensation for twelve months after the passing of the special Act or the giving of the notice, then the promoters shall pay to the person entitled to such compensation interest at the rate of Five Pounds per centum per annum until payment of such compensation.

Compensation for lands held under credit agreements to be paid to Commissioner on account.

14. The compensation payable by the promoters of any undertaking for or in respect of lands held under agreement for purchase upon credit from the Crown shall be paid to the Commissioner of Crown Lands on account of the money owing to the Crown on such agreement, and shall be accounted for accordingly.

ACCOMMODATION WORKS.

Accommodation works to be determined before hearing of claims for compensation.

15. In every case in which the promoters of any undertaking are liable to make any works for the accommodation of the owners or occupiers of lands adjoining a railway or other undertaking, the kind or number of such accommodation works and the dimensions or sufficiency thereof shall be determined before the hearing of any claim for compensation against such promoters for or in respect of lands of which the persons so entitled to accommodation works are the owners or occupiers. If any such person neglects to have the question of his claim for accommodation works determined as hereinbefore directed, he shall have no further right to compel the promoters of the undertaking to make such accommodation works.

MISCELLANEOUS.

Compulsory power to take lands for public undertakings may be exercised without limit as to time.

16. Notwithstanding anything contained in "The Lands Clauses Consolidation Act," or any other Act, the powers of acquiring lands compulsorily for the purposes of any undertaking, authorised or to be hereafter authorised by any Act of Parliament, and for carrying out which moneys shall have been or may be voted by Parliament, may be exercised without limit as to time.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO.

VICTORIÆ REGINÆ.

A.D. 1881.

No. 203.

An Act to amend the Law relating to Partition.

[Assented to, September 28th, 1881.]

WHEREAS it is expedient to amend the law relating to partition—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly, in this present Parliament assembled, as follows:

Preamble.

1. This Act may be cited as "The Partition Act, 1881."

Short title.

2. In this Act the term "the Court," means the Supreme Court of South Australia.

As to the term "the Court."

3. In an action for partition, where, if this Act had not been passed, a decree for partition might have been made, then if it appears to the Court that, by reason of the nature of the property to which the action relates, or of the number of the parties interested or presumptively interested therein, or of the absence or disability of some of those parties, or of any other circumstance, a sale of the property and a distribution of the proceeds would be more beneficial for the parties interested than a division of the property between or among them, the Court may, if it thinks fit, on the request of any of the parties interested, and notwithstanding the dissent or disability of any others of them, direct a sale of the property accordingly, and may give all necessary or proper consequential directions.

Power of Court to order sale instead of division.

The Partition Act.—1881.

Sale on application of certain proportion of parties interested.

4. In an action for partition, where, if this Act had not been passed, a decree for partition might have been made, then if the party or parties interested, individually or collectively, to the extent of one moiety or upwards in the property to which the action relates, request the Court to direct a sale of the property and a distribution of the proceeds, instead of a division of the property between or among the parties interested, the Court shall, unless it sees good reason to the contrary, direct a sale of the property accordingly, and give all necessary or proper consequential directions.

As to purchase of share of party desiring sale.

5. In an action for partition, where, if this Act had not been passed, a decree for partition might have been made, then, if any party interested in the property to which the action relates requests the Court to direct a sale of the property and a distribution of the proceeds instead of a division of the property between or among the parties interested, the Court may, if it thinks fit, unless the other parties interested in the property, or some of them, undertake to purchase the share of the party requesting a sale, direct a sale of the property, and give all necessary or proper consequential directions, and in case of such undertaking being given the Court may order a valuation of the share of the party requesting a sale in such manner as the Court thinks fit, and may give all necessary or proper consequential directions.

Authority for parties interested to bid.

6. On any sale under this Act the Court may, if it thinks fit, allow any of the parties interested in the property to bid at the sale, on such terms as to non-payment of deposit, or as to setting off or accounting for the purchase-money, or any part thereof, instead of paying the same, or as to any other matters as to the Court seem reasonable.

Court to declare what parties are trustees of lands comprised in any suit, and as to the interests of persons unborn.

7. In any action for partition where an order shall be made by the Supreme Court for the sale instead of the partition of the lands, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are trustees of such lands or any part thereof within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transaction concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be trustees within the meaning of this Act, and thereupon it shall be lawful for the said Court to make such order or orders as to the estates, rights, and interests of such persons, born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights, and interests of trustees born or unborn.

Payment and application of moneys arising from sales, or set aside out of rent, &c., reserved on mining leases.

8. All moneys to be received on any sale effected under the authority of this Act, when the property sold is a settled estate, may, if the Court shall think fit, be paid to any trustees of whom it shall approve,

The Partition Act.—1881.

approve, or otherwise the same shall be paid into Court *ex parte* the applicant in the matter of this Act, and such money shall be applied as the Court shall from time to time direct to some one or more of the following purposes, namely—The discharge or redemption of any incumbrance affecting the hereditaments in respect of which such money was paid, or affecting any other hereditaments, subject to the same uses as trusts, or the purchase of other hereditaments to be settled in the same manner as the hereditaments in respect of which the money was paid; or the payment to any person becoming absolutely entitled.

9. The application of the money in manner aforesaid may, if the Court shall so direct, be made by the trustees (if any) without any application to the Court, or otherwise upon an order of the Court, upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land.

Trustees may apply moneys in certain cases without application to Court.

10. Until the money shall be directed by the Court to be applied as aforesaid, the same shall be invested as the Court shall direct in some or one of the investments in which cash under the control of the Court is for the time being authorised to be invested, and the interest and dividends of such investments shall be paid to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land.

Until money can be applied to be invested and dividends to be paid to parties entitled.

11. Where any purchase-money paid into Court under the provisions of this Act shall have been paid in respect of any lease or any estate in lands less than the whole fee-simple thereof, or of any reversion dependent on any such lease or estate, the Court may, on the petition of any party interested in such money, order that the same shall be laid out, invested, accumulated, and paid in such manner as the said Court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be.

Court may direct application of money in respect of leases or reversions as may appear just.

12. The term "settled estates," as used in this Act, shall signify all hereditaments of any tenure, and all estates or interests in any such hereditaments, which are or shall be the subject of a settlement; and for the purpose of this Act a tenant-in-tail after possibility of issue extinct shall be deemed to be a tenant for life.

Interpretation of "settled estates."

All estates or interests in remainder or reversion not disposed of by the settlement, or reverting to a settlor, or descending to the heirs, executors, or administrators of a testator, shall be deemed to be estates coming to such settlor or heirs, executors, and administrators under or by virtue of the settlement.

In determining what are settled estates within the meaning of this Act, the Court shall be governed by the state of facts, and by the

The Partition Act.—1881.

the trusts or limitations of the settlement at the time of the said settlement taking effect.

Parties to partition suits.

13. Any person who, if this Act had not been passed, might have maintained an action for partition, may maintain such action against any one or more of the parties interested, without serving the other or others (if any) of those parties; and it shall not be competent to any defendant in the action to object for want of parties; and at the hearing of the cause the Court may direct such inquiries as to the nature of the property, and the persons interested therein, and other matters, as it thinks necessary or proper, with a view to an order for partition or sale being made on further consideration; but all persons who, if this Act had not been passed, would have been necessary parties to the action, shall be served with notice of the decree or order on the hearing, and after such notice shall be bound by the proceedings as if they had been originally parties to the action, and shall be deemed parties to the action; and all such persons may have liberty to attend the proceedings; and any such person may, within a time limited by general orders, apply to the Court to add to the decree or order.

Costs in partition actions.

14. In an action for partition, the Court may make such order as it thinks just respecting costs.

As to general orders under this Act.

15. Section 29 of the "Supreme Court Act 1878," relative to the making of general orders, shall have effect as if it were repeated in this Act, and in terms made applicable to the purposes hereof.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 204.

An Act for the Incorporation and Winding-up of Mining
Companies.

[Assented to, September 28th, 1881.]

WHEREAS it is desirable to promote mining enterprise in South Preamble.
Australia by increasing the facilities for the formation, incor-
poration, and winding-up of Mining Companies—Be it therefore
Enacted by the Governor of the Province of South Australia, with
the advice and consent of the Legislative Council and House of
Assembly of the said province, in this present Parliament assembled,
as follows:

PRELIMINARY.

1. Subject to the provisions hereinafter contained the Act Repeal of former
Act.
mentioned in the First Schedule hereto shall be and the same is
hereby repealed. First schedule.

2. Where before the time of the coming into operation of this Saving of existing
rights and duties.
Act any offence has been wholly or partly committed against any
Act so repealed, or any forfeiture or penalty has been incurred under
or made valid by any such Act, or any act has been done, or any
power has been exercised, or any appointment has been made, or any
instrument has been executed, or any operation has been effected,
under the authority of such repealed Acts or has been validated
thereby, or any right, liability, capacity, privilege, disability, or pro-
tection shall have accrued or any action, prosecution, or winding-up,
or other proceeding shall have been commenced, and be pending at
the time of the coming into operation of this Act, every such offence
shall be dealt with and punished, and every such forfeiture and
penalty

The Mining Companies Act.—1881.

penalty shall be enforced, recovered, and applied; and every such act, and every such exercise of such power, and every such appointment and instrument and operation, and every such right, liability, capacity, privilege, disability, and protection shall continue and be in force, and shall be subject to the same conditions and restrictions, and may be enforced in the same manner, and every such action or prosecution, and every such winding-up, except as provided in Part V. of this Act, and every such other proceeding, shall be continued and defended in the same manner as if such first-mentioned Act had not been repealed; and no incorporation of any company registered under any such repealed Act shall, except as provided by the said Part V., be affected by such repeal.

Title of Act.

3. This Act shall come into operation on the first day of October, one thousand eight hundred and eighty-one, and shall be called and may be cited as "The Mining Companies Act, 1881," and is divided into parts, as follows—

PART I.—Constitution of Companies:

PART II.—Winding-up:

PART III.—Prepayment of Companies:

PART IV.—No-liability Companies:

PART V.—Extension of Act to other Companies:

PART VI.—Miscellaneous:

PART VII.—Offences.

"Companies Act, 1864," not to apply.

4. Notwithstanding anything in the fourth section of "The Companies Act, 1864," or in the fifth section of "The Companies Act Amendment Act, 1870-71," any company, association, or partnership formed for mining purposes may be formed and may carry on any mining business that has for its object the acquisition of gain to such company, association, or partnership, or to the individual members thereof, and may be registered under this Act, without being registered as a company under the said "The Companies Act, 1864," or formed in pursuance of any other Act of the Parliament of South Australia or of Letters Patent.

Application and interpretation of this Act.

5. This Act shall extend and apply only to companies formed or to be formed for mining purposes: And in the construction and interpretation of this Act the words and expressions following shall, unless there be anything in the context or subject-matter inconsistent therewith, have the respective meanings hereby assigned to them (that is to say)—The words "mining purposes" shall mean the purpose of obtaining any precious or other metal or mineral of any kind by any mode or method whatsoever whereby the soil or earth or any rock or stone may be disturbed, removed, carted, carried, washed, sifted, smelted, refined, crushed, or otherwise dealt with for the purpose of obtaining such metal or mineral, whether such metal or mineral shall be the property of such company or of the Crown, or

The Mining Companies Act.—1881.

or of any other person whomsoever; and the word “company” shall mean and include any partnership or co-adventure for mining purposes, and wherever mentioned in the First Part of this Act shall mean and include as well a company deemed to be incorporated under that Part as a company actually so incorporated; and the expression “under this Act,” wherever occurring in such First Part, shall mean “under the First Part of this Act;” and the expression “the Court,” where occurring in this Act, shall mean the Supreme Court of the said province; and the word “Judge,” where so used, shall mean a Judge of such Court; and the term “*Gazette*” shall mean the *Government Gazette*; and the word “manager” shall mean manager or secretary.

PART I.

PART I.

CONSTITUTION OF COMPANIES.

1.—*Registration Incorporation, &c.*

6. Any company formed for mining purposes previously to the passing of this Act and not already registered under “The Miners Act, 1865,” or which may hereafter be formed for such purposes, two thirds of the shares in which in the latter case shall have been subscribed for, may become incorporated under the provisions of this part of this Act by obtaining registration as hereinafter mentioned. In order to obtain such registration there must be lodged in the office of the Registrar of Companies a memorandum, signed by some person as the manager of such company, which shall contain the several matters and may be in the form contained in the Second Schedule hereto. The said memorandum must be verified by a statutory declaration of the person so signing as manager, containing the statements and made in the form in the said Schedule. Within seven days after the day of such lodgment, a copy of the said memorandum and declaration shall be published in one or more than one newspaper circulating in the district within which the company’s operations are being or are to be carried on, and a like copy shall be forwarded to the office of the *Gazette* for publication therein, and which, on the proper payment being made therefor, shall accordingly be therein published. As soon after such publication as the same can be done, copies of such newspapers and also of the said *Gazette*, and of any rules proposed to be made by such company, shall be forwarded to the office of the Registrar of Companies, to be there retained and filed with the said memorandum.

Mode of obtaining
registration.

Second Schedule.

7. The Registrar of Companies shall keep a register-book to be entitled “The Mining Companies’ Register-book,” and on receipt by him of the said newspapers, *Gazette* copies, and copy of rules (if any), he shall enter the date of such receipt, and shall write and sign at the foot of the copy of the memorandum so lodged the words

Registration effected
by Registrar of
Companies.

*The Mining Companies Act.—1881.***PART I.**

words "The above company was registered by me on the day of eighteen hundred and by the name of "The Company, Limited," and upon such writing being signed by the Registrar of Companies, the said company shall be deemed to be registered under this part of this Act.

Incorporation of company.

8. Upon such registration the persons whose names shall be contained in the said memorandum, together with such other persons as may thereafter from time to time become members of the company, shall be a body corporate by the name contained in such memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, with power to hold lands including mining interests under any Act relating to mining, but with such liability on the part of the members to contribute to the assets of the company as provided in this Act.

Company to add "limited."

9. Every company registered under this part of this Act, shall add to the style and title under which the business of such company is carried on the word "Limited." If in any legal proceeding the title of a company shall be wrongly stated, such proceeding may be amended by a right statement of the title, if there shall appear in such proceeding anything showing what is the right title, and if the Court or Judge thereof shall consider that no party to such proceeding would be prejudiced by such amendment.

Proof of registration and of appointment of manager.

Third Schedule.

10. A certificate in the form or to the effect in the Third Schedule to this Act, purporting to be under the hand of the Registrar of Companies (who is hereby required to give such certificate to any person applying for the same on payment of One Shilling), and which certificate shall describe the *Gazette* and newspapers and copy of the rules aforesaid, the *Gazette* and copy by their respective dates, and the newspapers by their respective names and dates, shall be conclusive evidence in all Courts that the company has been duly registered under the provisions of this Act and of the time of its registration.

Fees payable on registration.

11. Upon the registration of any company under this Act, the fees set forth in the Fourth Schedule hereto shall be payable to the Registrar of Companies in respect of the several matters therein mentioned.

Copies of *Gazette* to be evidence of shareholders.

12. Any copy of the *Gazette* described in such certificate as aforesaid shall be *prima facie* evidence that the persons named therein as shareholders in any such company are such shareholders.

Shares unsubscribed for and transferred to a company to be its property.

13. After a company shall be registered all shares therein which from time to time shall remain unsubscribed for shall, until subscribed for, and all shares which may be transferred thereto as hereinafter provided for, shall, until re-issued, be the property of the company, and shall be registered in its name or in the name of a trustee

*The Mining Companies Act.—1881.***PART I.**

trustee appointed by it for the purpose ; but no liability shall attach to the company or to any such trustee in respect of any of such shares.

14. No company shall be registered under this Act by a name or title so similar to the name or title of any other company registered under this or any other Act as to be likely to cause such companies to be mistaken the one for the other, and the Registrar of Companies shall decide any question arising under this clause.

Names.

2.—Liability of Shareholders.

15. Every person in whose name any share in a company shall be registered in the register of members hereinafter mentioned shall, while it shall be so registered, be liable to contribute to the assets of the company for the purposes thereof, and for its debts, liabilities, and obligations, and for adjusting the rights of the shareholders amongst themselves to the amount from time to time remaining unpaid on such share, but not further or otherwise: Provided, however, that no contribution in the form of a call shall exceed the amount fixed for calls by the rules of the company.

Liability of shareholders.

3.—Registered Office.

16. Every such company shall have a registered office which shall be accessible to the public while the business of the company is being carried on for not less than four hours on some days, not to be less than two in each week, to be fixed by the rules of the company; and service of any notice or legal process shall be deemed to be good service on the company if enclosed in a registered letter addressed to the manager of such company at such office, or if left thereat with any person in charge of the same, or delivered to the manager or clerk personally.

Company to have office.

Service of notices, &c., upon company.

17. If a company having ceased to carry on business shall have no registered office or manager any such notice or process may be published in the *Gazette*, and such publication shall be deemed service upon the company.

Service on company after cessation of business and no office.

18. Notice of the situation of its registered office, and also, immediately after any change of such office, of such change, shall be filed with, and registered by, the Registrar of Companies, who shall enter the same at the foot of the registry of the said company in the Mining Companies Register-book. A copy of every such notice shall be published in the *Gazette*; and until after such publication as to the original situation of the office the company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office, and until after such publication as to a change of the office the office previously existing shall be deemed to be the office of the company.

Notice of registered office.

4.—Manager.

The Mining Companies Act.—1881.

PART I.

4.—*Manager.*

First manager to continue after incorporation.

19. The manager who shall have signed such memorandum as aforesaid shall continue after the incorporation of the company in respect of which he shall have signed it, and until a new manager shall be regularly appointed to be the manager thereof.

Notice of manager.

20. A notice, similar to that hereinbefore directed to be filed of the situation and of any change of the registered office, must be filed with the Registrar of Companies of the name and of any change of the manager; and such notice as to the manager shall be dealt with, and copies thereof published, in like manner as is directed in the case of notices as to the registered office.

Manager's duty to lodge notices as to office and manager.

21. It shall be the duty of the manager for the time being to file both such notices and publish such copies.

Manager to be present at office while open to the public.

22. The manager of every company shall be present at the registered office of his company by himself or his agent or clerk on every day while the business of the company is being carried on, on the days and at the hours on and at which the registered office is to be accessible to the public as aforesaid.

Certain contracts made by the manager to be binding on the company.

23. Every contract made by the manager for the time being of a company for the purchase of goods or the performance of work and the supply of the materials for the same, to an amount in the aggregate not exceeding Fifty Pounds, for the purposes of the company, shall be binding upon the company and upon the assets thereof; and such assets may be seized and sold in execution in any action against such company upon any such contract; but no such contract shall be binding upon the manager himself.

On cessation of business without winding up, manager to have three months' salary only.

24. If a company shall cease to carry on business without being wound up, the manager shall not be entitled to recover more than three months' salary from the date of the last meeting of the directors or shareholders, unless his services shall be retained for a longer period by some special agreement or by a resolution of the directors or of the company.

Manager shall deposit books, &c., with the Registrar of Companies.

25. At the expiration of six months from the time at which a company shall have ceased to carry on business without being wound up, the manager shall deposit with the Registrar of Companies the register of shareholders in, and all other books and documents belonging to, the company in his possession or under his control, and the said Registrar of Companies shall receive and give a receipt therefor: Provided that the Court or a Judge thereof may, if it shall appear reasonable to do so, extend the time for such deposit to such further time as shall be thought fit.

5.—*Directors.*

*The Mining Companies Act.—1881.*5.—*Directors.*

PART I.

Election of directors.

26. If previously to the incorporation of a company the number of, and the persons who are to be, the directors thereof shall not have been determined the company shall, at an extraordinary meeting, to be called as hereinafter provided, as soon as may be after its incorporation, determine by a majority of shareholders there present in person or by proxy such number and persons, and shall also by such majority determine so far as shall not be provided by rules theretofore made, or made at the said meeting, the mode of election of future directors, the qualifications, powers, term of office, and mode of retirement of directors, and the number of them who are to form a quorum, and may by such majority continue the then existing manager in his office, or appoint another in his stead; and the directors so determined upon shall have the custody and use of the common seal, and shall carry on and transact the business and affairs of the company, and shall, until their successors shall be appointed, continue to be such directors; and none of such directors shall be or continue to be directors of any company or companies working or holding ground abutting on or next to the company or companies which may be engaged in litigation with the company of which they were first appointed directors.

27. Not less than one week previously to the day for holding a general meeting of a company the directors thereof shall lodge in the company's office, for the inspection of the shareholders in and creditors of the company, a full and true report, and, as far as may be, up to the day of the framing thereof, of the state and prospects and of the assets and liabilities of the company, together with any other matter which by any rules of the company they shall be bound to set forth in reports to be made by them.

Directors' reports.

6.—*Transfers.*

28. No share in a company under this Part of this Act shall, unless the whole amount of such share be fully paid up, be transferred in any such company after the presenting of a petition for the winding-up thereof unless such petition shall have been dismissed or proceedings thereunder stayed altogether.

Shares not to be transferred when company is being wound up.

29. Save as hereinafter mentioned no such share shall be deemed to be transferred unless and until the name of the transferee be entered as such transferee in the register of shareholders.

Name of transferee to be entered on register.

30. When any person shall produce to and leave with the manager of a company any scrip certificate thereof upon which shall be written a blank form of transfer of a share represented thereby, signed by the person whose name shall then appear on the register of shareholders as the holder of the said share, and shall name to the manager as transferee thereof either himself or some person for whom he shall be authorised by a writing, to be produced to, and left with, the manager, to act as agent, the manager shall

To be entered by the manager, in what case.

*The Mining Companies Act.—1881.***PART I.**

shall give to such person a receipt for such scrip signed by him as manager, dated of the day upon which it shall be given, describing, by its number and otherwise as may be, the share represented by the scrip, and setting forth that the scrip has been left with him for the purpose of transferring the said share from the person in whose name it shall so appear on the register as aforesaid to the person named to the manager as the transferee, and shall within seven days from such day, if no call shall be due on the share, enter in the register of shareholders the name of the person so named to him as transferee; and shall thereafter, when required, deliver to such person, or to his agent for him, a new scrip for the share so transferred filled up with the name of the person who shall then be the transferee.

On default of manager
receipt to be title to
share.

31. If the manager shall not make the entry in the register as and when he is in the preceding section required, the said receipt shall, after the lapse of the said seven days, entitle the person thereby named as the intended transferee of the share to be deemed the transferee thereof, and he shall be entitled to apply to the Court or the Judge thereof, under the provisions hereinafter contained, for an order directing the manager to duly enter in the register the transfer of the said share.

Trust on fraudulent
transfer incapable of
being enforced.

32. If any person being a shareholder in any such company shall, with the view of evading the liabilities incident to his share, transfer the same upon some trust or understanding under or according to which he is to be entitled at any future time to have retransferred to him, or to resume the ownership of, or to have any interest in such share, such person shall be disabled from enforcing in any Court any trust for him in such share.

Shares may be trans-
ferred to the company.

33. Any person desirous of freeing himself from a share in a company may transfer the same to the company, and on production to the manager by him or his agent authorised in writing of the scrip representing the share to be transferred, whereon shall be written a transfer of the share to the company signed by the person who shall then appear on the register of shareholders as the holder of the share, and if the person producing the scrip be an agent, on production and leaving with the manager his authority, the manager shall, on being requested by the person producing the scrip to accept a transfer of the share for the company, give to such person a receipt of the like import to that mentioned in the thirtieth section hereof, save that it shall name the company as the transferee, and shall, within seven days from the day of the date of the receipt, if no call shall be due on the share, enter in the register of shareholders the name of the company or of some trustee on its behalf as the transferee thereof.

On default of manager
receipt to be proof of
transfer.

34. If the manager shall not make the entry as and when he is in the preceding section required, the said receipt shall, after the lapse of the said seven days, be conclusive evidence that the share
has

The Mining Companies Act.—1881.

has been transferred to the company, and thenceforth the person by whom, or on whose behalf the transfer was required, shall be freed from the share and all liabilities thereon.

PART I.

7.—*Register of Shareholders.*

35. The shares in a company shall be numbered in consecutive order, and the manager shall keep, or cause to be kept, in a book appropriated to the purpose, a register of the shareholders in the company, and there shall be entered therein the particulars following—

Register of shareholders.

- I. The names and addresses and, if known, the occupations of the shareholders in the company :
- II. The shares held by each shareholder, distinguishing each share by its number and the amount paid or (if any) agreed to be considered as paid on the shares of each shareholder :
- III. The date at which the name of any person was entered in the register as a member, and the date at which any person ceased to be a member.

36. Such register shall at all times be open, free of charge, for the inspection of creditors or shareholders and shall be *prima facie* evidence of the truth of all matters therein contained which are by this Act required or authorised to be inserted therein.

Register to be open to creditors and shareholders, and to be *prima facie* evidence of matters therein.

37. On the application to the Court or a Judge thereof of any member of the company, or of the company, or any person claiming to be interested as transferee or transferree of a share, complaining that the name of any person is, or remains, improperly entered in, or omitted from, the register, the Court or Judge shall decide the question, and, if it shall be right so to do, direct that the register shall be rectified accordingly, and to that end may order the manager to enter any person as transferree of a share, and give to such person the proper scrip, and may make such other order, and as to costs as shall be just. The Court may on such application decide on any question relating to the title of any party thereto to have his name entered in, or omitted from, the register, whether such question shall arise between two or more members or alleged members, or between any such members and the company, and generally may decide any question necessary or expedient to decide for the rectification of the register.

Rectification of register.

38. No notice of any trust expressed, implied, or constructive, shall be entered in such register, or be receivable by the Registrar of Companies.

Trusts.

8.—*Books of Account.*

39. The manager of a company shall keep true accounts of the affairs and transactions thereof.

Books of account to be kept.

40. The

*The Mining Companies Act.—1881.***PART I.**

Half-yearly statements.

40. The directors of a company shall cause half-yearly statements of such affairs and transactions to be made, and a printed copy of such half-yearly statement shall be forthwith served upon the Registrar of Companies, accompanied by a statutory declaration by the manager or one of the directors verifying the same. No book or document belonging to a company shall be liable to be seized in execution for any debt, or, except as herein provided, to be taken under any judgment, decree, or order of any Court out of the control of such company; and the Registrar of Companies is hereby empowered to prescribe from time to time the form in which the books of account and half-yearly statement of every company shall be kept, and the directors shall keep such books and prepare such statement according to the form so prescribed.

Books to be open to inspection.

41. Books of account and such statement verified by the statutory declaration of the manager, and also the reports of the directors as hereinbefore directed to be made, shall, during office hours, be open to the inspection of the shareholders in, and creditors of, the company: Provided that for the inspection of any such accounts or statement there shall be paid Two Shillings and Sixpence to the manager for the benefit of the company.

Copy of statement and accounts to be furnished.

42. A copy of any such statement or of such accounts shall, within fourteen days after service upon the manager of a notice in writing by any creditor of, or shareholder in, the company of which he shall be manager requesting the same, be furnished by him to the person so requesting, provided that at the time of the service of the notice the sum of Ten Shillings be paid to him for each of the said copies as shall be required. The accounts, a copy of which is to be furnished, may be limited at the manager's discretion to three months ending with the day of the service of the notice. Every copy furnished under this section must be certified by the manager as true and be signed by him.

9.—Contracts.

Contracts how made, varied, or discharged.

43. Contracts on behalf of any company may be made, varied or discharged, as follows (that is to say)—

1. Any contract which if made between private persons would be by law required to be in writing under seal may be made, varied, or discharged in the name and on behalf of the company in writing under the common seal of the company:
11. Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged, in the name and on behalf of the company in writing signed by any person acting under the express or implied authority of the company:

III. Any

*The Mining Companies Act.—1881.***PART I.**

111. Any contract which if made between private persons would by law be valid, although made by parol only, and not reduced into writing, may be made, varied, or discharged, by parol in the name and on behalf of the company by any person acting under the express or implied authority of the company.

10.—*Extraordinary Meetings.*

44. An extraordinary meeting of a company shall be convened by inserting in the *Gazette* and in a newspaper published in Adelaide, in two numbers thereof, in each of two consecutive weeks, and in a newspaper circulating in the locality wherein the registered office of the company shall be situated in one number thereof, in each of the same weeks, a notice signed by the manager of the company that on some day to be named therein, not to be earlier than fourteen days after the day of the first of the said insertions, and at the hour and place to be therein stated, such meeting will be held; and such notice shall specify the nature of the business to be transacted, otherwise such meeting shall not have power to transact any business, and every such notice so given shall be sufficient without any other notice whatsoever, any rule of law or of the company to the contrary notwithstanding; the manager shall also post a written notice of such meeting outside the door of the registered office.

Extraordinary meetings.

45. Where by the instrument or deed of association or the rules of a company it shall be, or is provided that an extraordinary meeting of shareholders may or shall be convened by the directors or manager on being requested to do so by the holders of a specified number of shares in the company, if, for five days after such request, the directors or manager, as the case may be, shall refuse or neglect to convene such meeting, the shareholders requesting such meeting to be called, or the majority of them, may sign all such notices and do all such acts as shall under such instrument or rules be necessary for the purposes of convening an extraordinary meeting of shareholders of such company; and any such meeting so convened shall have the same power in every respect as if such meeting had been convened by such manager in the manner directed by any such instrument or rules.

Extraordinary meeting when manager refuses to convene.

46. In the absence of any rule to the contrary, every shareholder may vote at any meeting of the company by proxy given by a writing signed by such shareholder, but every such proxy shall be a proxy given for a special purpose.

Voting by proxy.

11.—*Increase of Capital.*

47. Any company may, after the final call has been made, with the sanction, given at an extraordinary meeting thereof, of a majority consisting of not less than two-thirds in number and value of the shareholders in such company in person or by proxy, from time

Capital may be increased.

*The Mining Companies Act.—1881.***PART I.**

time to time increase its capital by the issue of new shares, every such increase to be divided into shares of such respective amounts as such majority shall direct.

Notice of the increase of capital.

48. Notice of the resolution for the increase of capital, setting forth the mode and particulars of the increase, and headed with the name of the company, shall immediately after such meeting be inserted by the manager in the *Gazette* and in one or more than one newspaper, published in Adelaide, and one or more than one newspaper circulating in the neighborhood of the registered office of the company. Any such new shares shall not for the space of fourteen days after the latest of the said publications be open to the public but only to the shareholders in the company. Such new shares may be made preference shares and may be issued upon such terms as such majority shall direct. A similar notice, signed by the manager and by two at least of the directors of the company, and in the form or to the effect directed by the Fifth Schedule to this Act, verified by the statutory declaration of the manager in the form contained in the same schedule, shall be lodged with the Registrar of Companies within fourteen days from the time at which such increase shall have been resolved on, and such notice shall be filed by the Registrar of Companies with the memorandum originally lodged by the company, and shall, or a copy thereof purporting to be signed by the Registrar of Companies, be conclusive evidence that such increase was legally and properly resolved upon, and, as the case may be, of the increased amount of the shares or of the number, amount, and nature of the new shares.

Fifth schedule.

Copy of notice evidence that increase of capital was rightly effected.

New capital to be deemed part of original capital.

49. Any capital raised by the increase of capital shall, subject to the provisions aforesaid, be considered as part of the original capital, and be subject to the same provisions with reference to the payment of calls, or otherwise, as if it had been part of such original capital.

12.—Power to Borrow Money and to Mortgage.

Power to borrow money and to mortgage.

50. Any company may, with the sanction of such majority given at such meeting as last aforesaid, from time to time borrow money not exceeding such sum as such majority shall direct, and may secure the repayment thereof, or of any sum previously borrowed, or liability incurred, by the directors of such company, and interest thereon, by a mortgage or bill of sale of the property of the company, or any part thereof.

Mortgage and bill of sale ineffectual until registered.

51. No such mortgage or bill of sale shall have any effect unless and until it shall have been registered with the Registrar of Companies, and all such mortgages and bills of sale affecting the same property shall have priority according to the respective times of registration, and, so soon as the same shall be sealed with the company's seal and registered, shall bind the company, whether any preliminaries

The Mining Companies Act.—1881.

preliminaries hereby required shall have been observed or not; and such registration shall be effected by filing with the Registrar of Companies a duplicate copy of the said mortgage or bill of sale sealed with the company's seal.

PART I.

Mode of registration.

13.—Dividends Payable only out of Profits.

52. No dividend shall be payable to the shareholders of any company, except out of the profits arising from the business of such company. If any director of a company shall wilfully pay, or permit to be paid, any dividend otherwise than out of such profits, he shall be liable to a penalty of not less than One Hundred Pounds nor exceeding Five Hundred Pounds, and in default of payment thereof to imprisonment for a period of not less than three nor exceeding twelve months, and shall also be liable to the creditors of the company for the amount of the debts due by the company to them respectively, to the extent that the dividends so paid shall have exceeded the profits, and such amount may be recovered by the creditors or the liquidator suing on behalf of the creditors. If the whole shall be recovered from one director he may recover contribution against any other director who shall have also made or permitted such payment.

Dividends payable from profits only.

Directors paying dividends otherwise to be personally liable.

14.—Calls.

53. The calls upon shares in every company shall be made in such time and manner as that they shall be payable on the second Wednesday in a month, and on that day only, such day not to be less than seven days from the day on which the call shall be made; a notice shall be printed on the face of each company's scrip stating that that day is the day on which calls are payable. When a call shall have been made, notice of the day when it will be payable, and of the place for payment thereof, shall be published in the *Gazette*, in a daily newspaper published in Adelaide, and in one or more papers circulating in the locality wherein the registered office of the company shall be situated.

Calls to be due on second Wednesday in any month.

54. When a call shall have been made, no subsequent call shall be made until after the expiration of fourteen days from the day when the call so made shall be payable.

No call to be made until fourteen days after previous call payable.

55. The amount of any call which for the time being may be unpaid upon any share in a company shall, on and from the day when it shall be payable, be deemed to be a debt due from the holder of such share to the company, and shall, provided proceedings for the purpose be commenced within fourteen days from that day, be recoverable, with interest thereon, and costs of suit, by the manager, describing himself in any proceeding therefor as manager of the company to whom the call shall be due, in an action to be brought in the Supreme Court, or in any Local Court having jurisdiction to the amount claimed.

How calls recoverable.

56. In

The Mining Companies Act.—1881

PART I.

What to be stated
and proved on suing
for calls.

56. In any such action it shall be sufficient to state in the writ of summons, claim, or plaint that the defendant, or, if the proceedings be against an executor or administrator of a deceased shareholder, that the shareholder was at the time of his death, and his estate still is, indebted to the company in the sum due for the call, setting forth the day upon which the call was due, and in the sum claimed for interest thereon, and a resolution purporting to be a resolution of the directors of the company declaring a call to be due on that day appearing in the book in which such a resolution ought to be entered, or a copy of such resolution, verified as being such by the statutory declaration of the manager, whose signature or handwriting thereto it shall not be necessary to prove, shall be *prima facie* evidence that such call was duly made; and proof that the person taking such proceeding was at the commencement thereof acting as manager of the company shall be sufficient proof of his appointment as such: Provided that if, pending any such proceedings, the manager shall, by death, resignation, or otherwise, cease to be such the name of the succeeding manager shall, on such evidence as the Court before which the proceedings shall be pending shall think sufficient that he is the succeeding manager, be substituted in the proceedings for the name of the manager so ceasing, after which the character of the succeeding manager as such shall not be disputed, and the proceedings shall be carried on in his name.

Forfeiture of shares
for non-payment of
calls.

57. Any share upon which a call due thereon shall, at the expiration of fourteen days after the day upon which it shall be due, be unpaid, shall thereupon be absolutely forfeited without any resolution of directors or other proceeding, provided that no proceeding for the recovery of the call shall during such fourteen days have been commenced. If any such proceeding shall be taken and the amount of any judgment or order obtained thereon against the shareholder shall not, within fourteen days after such judgment or order shall be obtained, be paid, or cannot within that time be levied out of any property of the shareholder, the share shall at the end of the said fourteen days be absolutely forfeited without any such resolution or proceeding as aforesaid.

Forfeited shares to be
sold by auction.

58. Every forfeited share shall be sold by public auction advertised in the *Gazette*, in a daily newspaper published in Adelaide, and in one or more papers circulating in the locality wherein the registered office of the company shall be situated, not less than seven nor more than fourteen days before the day appointed for the sale, and the proceeds shall be applied in payment of the call due thereon, and of the expense of such advertisement and any other expenses necessarily incurred in respect of the forfeiture, and, in case of any proceedings having been taken for the recovery of the call, of all costs and expenses incurred against the shareholder in respect of such proceedings, and the balance (if any) shall be paid to him upon his delivering to the company the scrip representing such forfeited share.

59. Notwithstanding

The Mining Companies Act.—1881.

59. Notwithstanding anything hereinbefore contained any person, a share belonging to whom shall have been forfeited as aforesaid, shall be entitled, at any time up to or on the day previous to that upon which it is intended to sell the share, to redeem the said share by payment to the manager of all calls due thereon, and of all expenses incurred by the company in respect of the forfeiture, and of all costs and expenses of any such proceeding as aforesaid which may have been taken; and upon such payment the manager shall re-enter the name of such person in the register of shareholders, and he shall thereupon be entitled to the share as if the forfeiture had not been incurred.

PART I.

Redemption of forfeited shares.

60. On the day previous to that on which a forfeited share is to be advertised for sale the company's office shall be open during the hours for which, on days when it is by the rules of the company to be open, it is by such rules to be kept open.

Office to be open the day before sale advertised.

15.—Rules of Company.

61. The majority in number and value of the shareholders in any company may from time to time, both before and after incorporation, make and alter rules for the management and purposes of the company not inconsistent with this Act; but if any such rule shall be made or altered after incorporation it shall be made or altered only at an extraordinary meeting of the shareholders. A copy of every rule made or altered by a company shall, immediately after the making or altering thereof, be filed at the Registrar of Companies' office.

Company may make rules.

PART II.**WINDING-UP****PART II.****1.—When and how Winding-up is to be effected.**

62. A company may be wound up by the Court in any of the events following (that is to say)—

When companies may be wound up.

- i. When at an extraordinary meeting of any such company a majority in number and value of the shareholders therein shall have passed a resolution requiring the company to be so wound up:
- ii. Where a company shall not have taken *bonâ fide* steps towards the commencement of its business within six months from the date of its incorporation, or shall suspend its business for the space of a whole year:
- iii. When the company is unable to pay its debts:
- iv. When a company has made a conveyance or assignment of its property to a trustee or trustees for the benefit of its creditors generally:

v. When

The Mining Companies Act.—1881.

PART. II

v. When a company has made a conveyance, gift, delivery, or transfer of its property, or of any part thereof, with intent to defeat or delay its creditors:

vi. When the Court shall be of opinion that it is just and equitable that the company should be wound up.

Company when unable to pay its debts.

63. A company under this part of this Act shall be deemed unable to pay its debts—

i. When a creditor by assignment or otherwise to whom such company is indebted at law or in equity in a sum exceeding Fifty Pounds then due shall have served on the company a demand under his hand requiring the company to pay the sum so due, and the company shall have for the space of six weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor:

ii. When any execution or other process issued on a judgment, decree, or order in favor of any creditor in any action, suit, or other legal proceeding instituted by such creditor against a company, shall be returned unsatisfied either in whole or in part:

iii. When it shall be proved to the satisfaction of the Court or a Judge that the company is unable to pay its debts.

Winding-up to be by petition.

64. Any application for the winding-up of a company shall be by petition addressed to the Court by the company, or by one or more than one shareholder therein, or creditor thereof, or by any of such parties together, and such petition may be presented, *ex parte*, to the Court: Provided that seven days previously to the presenting thereof a notice of the intention to present the same shall be served at the company's office.

Frame of petition.

65. A petition for winding-up a company shall be entitled in the matter of this Act and of the company to which the petition shall relate, and shall set forth the character of the petitioner, whether company, shareholder, or creditor, and the event on the alleged occurrence of which the winding-up shall be sought, and, in case the winding-up shall be sought on the ground mentioned in the sixth paragraph of the sixty-second section, the petition shall set forth the reasons for which the petitioner submits that it is just and equitable that the company should be wound up; and the petition shall then pray that the company may be wound up, and shall be signed by the party presenting the same, and, if presented by a company, be sealed with its seal. It shall, if presented by a company, be signed by and verified by the affidavit of the manager or a director thereof, and, if presented by any other person, by his affidavit, or, if such other person be a creditor, by the affidavit of any person on his behalf who can depose to the facts.

66. On

The Mining Companies Act.—1881.

PART II.

66. On the presentation of the petition the Court may thereupon either grant or refuse the prayer thereof, or may order that it shall be heard before the Court on a day and at a place to be named in the order. If on such presentation a hearing of the petition at a future day shall be ordered, the Court so ordering shall direct such notice of such hearing to be given to such parties as the Court shall think right.

Proceeding on presentation.

67. On the coming on of any such hearing or on any adjournment thereof, and on proof of such service of the said notice of hearing as the Court shall think sufficient, and on such further evidence (if any) as the Court may require, and can be obtained in relation to the facts averred in the petition, the Court or Judge may make such order as it or he shall think right, either for a winding-up of the company, or for dismissal of the petition, or may, on sufficient cause therefor being shown, adjourn the decision conditionally or unconditionally for any reasonable time, and may make such order as to costs as it or he shall think just.

Hearing of the petition.

68. Every winding-up order shall appoint a day and place for a general meeting of the creditors of the company, and shall be served on such parties and in such manner as the Court shall direct.

Order to fix a day and place of meeting of creditors.

69. Any such order may be in the form in the Sixth Schedule hereto, or to the like effect, and if made by a Judge shall be entitled as of the Court of which he shall be Judge, as in the form in the Schedule referred to.

Form of order, Sixth Schedule.

70. Within ten days after any such order shall have been made, the petitioner shall advertise the same in one or more than one newspaper published in Adelaide, and in one or more than one newspaper circulating in the neighborhood of the place where the registered office of the company shall be situated.

Advertisement and notice of order

71. When an order for winding-up shall be made, the winding-up shall be deemed to have commenced at the time of the presentation of the petition therefor.

Commencement of the winding-up.

72. On the making of any such order, a copy thereof, certified and sealed with the seal of the Court, shall be forwarded to the office of the Registrar of Companies, where it shall be filed with the memorandum originally lodged by the company.

Order to be filed with company's memorandum.

73. Immediately upon the making of such order, the property of the company ordered to be wound up shall vest in the Registrar of Companies.

Property of company shall vest in Registrar of Companies.

74. No petition shall be presented by any creditor after the lapse of one year from the time when his debt shall have been due and payable, or, if judgment shall have been obtained thereon, from the time when such judgment shall have been obtained.

No petition by creditor whose debt is due one year.

2.—*Stay*

The Mining Companies Act.—1881.

PART II.

2.—*Stay of Previous, or of Winding-up, Proceedings.*

Previous legal proceedings may be restrained.

75. At any time after the presentation of a petition for the winding-up of a company the Court may, upon the application of the company or of a creditor of, shareholder in, or contributory to it, restrain further proceedings in any action, suit, or proceeding against the company, upon such terms as the Court shall think fit; and after any such order shall have been made no suit, action, or other proceeding shall be continued or commenced without the leave of the Court, and subject to such terms as the Court may impose.

Winding-up proceedings may be stayed.

76. The Court may at any time after the making of a winding-up order, upon the application of any such creditor, shareholder, or contributory, and upon being satisfied that the proceedings upon such order should be stayed, make an order staying the same, either altogether, or for a limited time, on such terms as it or he shall think fit.

3.—*Liquidator.*

Appointment of liquidator.

77. The creditors of the company shall, on the day and at the place appointed for their meeting, by resolution appoint some fit person, whether a creditor or not, to be liquidator of the estate of the company, at such remuneration (if any) as they may from time to time determine; and shall by resolution determine whether any and what security is to be given, and to whom, by the person so appointed.

Appointment of liquidator to be sanctioned by the Court.

78. No such appointment shall be effectual without the sanction of the Court, but the Court may, upon the acceptance in writing of office by the person so appointed, and upon being satisfied that the requisite security (if any shall be required) has been given, make an order confirming his appointment.

Liquidator may resign his office.

79. A liquidator may resign his office, but only with the sanction of the Court, and subject to such order as the Court may think it right to make; and on such resignation the Court shall make such orders as may be necessary for the preservation and administration of the estate of the company until a new liquidator shall be appointed. No such sanction of the Court shall prevent a liquidator so resigning from being liable to account as such to any subsequent liquidator.

Appointment of successor to liquidator removed, resigning, &c

80. The creditors may at any meeting by resolution remove the liquidator, and on the vacancy of the office of liquidator by any such removal, or by the resignation or death of a liquidator, the creditors may, subject to such sanction and order of confirmation, and with such remuneration and upon the giving of such security as aforesaid, appoint another person to fill the office so become vacant.

Creditors may vote by proxy or in person.

81. The creditors may at any of their meetings attend and vote by proxy or in person.

82. Any

The Mining Companies Act.—1881.

PART II.

82. Any successor to a liquidator shall, during his continuance in office, have all the powers, perform all the duties, and be subject to all the responsibilities which his predecessor, if he had continued in office, would have had, should have performed, and would have been liable to.

Powers and duties of a succeeding liquidator.

83. Any such successor may, after the confirmation of the order of his appointment, with the sanction of the Court, adopt any proceedings then pending which may have been taken by his predecessor in office, whether by suit, action, or otherwise, or may with such sanction repudiate any such proceedings.

Adoption of proceedings by liquidator's successor.

84. The Court shall have power, on the application of the company or any creditor thereof, or contributory as hereinafter described thereto, to make an order that the remuneration of the liquidator shall be withheld in the whole or in part, if the Court shall think that, by reason of his conduct, such order would be proper.

Remuneration may be withheld from the liquidator.

85. Immediately upon the making of an order confirming the appointment of a liquidator the property of the company ordered to be wound up shall be divested out of the Registrar of Companies and shall vest in such liquidator, and, on the making of an order confirming the appointment of any successor to him, shall, so far as it shall then exist, vest in such successor.

On confirmation of appointment of liquidator, company's property to vest in him.

86. After the making of any such order the Court shall direct that the manager of the company shall deliver to the liquidator, upon or before a day named in the order, the register of the shareholders in the company, and all books and documents and other property belonging or relating to the company in his possession or under his control, and shall make such order as against any other person in whose possession or under whose control such register or any such books or documents or other property may be; and such manager or other person shall, at the time of making such delivery, lodge with the liquidator a list of such books, documents, and property, with a statutory declaration subscribed thereto, made by such manager or other person, stating that there are no books or documents or other property belonging or relating to the company in his control other than those mentioned in the said list; and no manager, director, solicitor, attorney, or other person shall have any lien for salary, costs, or otherwise upon any of such books, documents, or property after any such order shall have been made.

Manager, &c., to lodge register-book and documents with the liquidator.

87. The liquidator may, with the sanction of the Court, employ any person to be his clerk to assist him in the winding up of any company, and may appoint a solicitor to assist him in the performance of his duties.

Clerk of liquidator.

88. Every liquidator and any such clerk employed by him shall be deemed to be an officer of the Court, and shall be amenable to it to the same extent as any officer of the Supreme Court is amenable to such Court.

Liquidator and his clerk to be officers of the Court.

89. The

*The Mining Companies Act.—1881.***PART II.**

Liquidator to have an office.

89. The liquidator shall have an office situate in such locality as the Court by the order confirming his appointment shall direct as the most convenient place for the administration of the affairs of the company. He, or his clerk, shall attend daily at such office during the usual hours for business in such locality; and service during these hours at such office of any notice intended for the liquidator shall be good service upon him.

Liquidator to keep accounts.

Books to be open to inspection of shareholders and creditors.

90. The liquidator shall keep in the said office proper books of account of the assets and liabilities of such company, and of his receipts on account thereof, and of their disposal; and such books and all other books belonging or relating to the company in his possession or under his control shall, during such hours as aforesaid, be open every day during his acting in such winding-up to the inspection of the shareholders in, and creditors of, and contributories as hereinafter described to, the company; and on request by any such shareholder, creditor, or contributory, and payment of Ten Shillings, he shall give to him a copy signed and certified as true by him, the said liquidator, of the said accounts as existing at the time of such request.

Liquidator to submit to examination.

91. The Court may, on the application of any such shareholder, creditor, or contributory, order that the liquidator shall submit to an examination on oath before the Court at any time which the Court shall appoint, by a barrister or attorney on behalf of such shareholder, creditor, or contributory, touching the said accounts, and he shall then answer such questions as may be asked of him, subject to the control of the Court, and the Court shall on such examination make such order as the case requires, and also as to the costs of the examination as it or he shall think fit.

Liquidator to take possession of and realise property.

92. As soon as may be after the making of the order confirming the appointment of the liquidator, he shall take possession of the property of the company, and shall with all reasonable speed sell such part of the same as shall not be money by public auction or private contract, together or in parcels, as shall be most prudent; and the proceeds of such sale or sales, as also all other moneys received by him on account of the company, he shall pay into some bank, to be fixed upon by the Court and stated in the order confirming his appointment, to the credit of an account to be entitled in the matter of the winding-up of the company.

Liquidator to sue for calls.

93. The liquidator shall also, as soon as may be after the making of such order collect, and, if necessary, sue for and recover, by any of the modes by which the manager of the company might have done so, and which he is hereby empowered to do, all calls which previously to the commencement of the winding-up may have been made and shall be unpaid in respect of shares which shall not have been forfeited; and any moneys received or recovered by him in respect of such calls shall be paid into the bank and to the account aforesaid. Section fifty-six of this Act shall apply to any proceeding by the liquidator

The Mining Companies Act.—1881.

liquidator under this present section, the word “liquidator” being, for the purpose of such application, substituted for the word “manager.”

PART II.

94. After the making of any such order the Court may direct that any bank, banker, or other person having in its or his hands any money to which the company is *prima facie* entitled, shall show cause, within such time as the Court shall direct, why such bank, banker, or other person should not forthwith, or within such time as the Court shall direct, pay the same into the bank so fixed upon by the Court as aforesaid to the said account.

Money in the hands of others to be paid into a bank.

95. The Court shall, by the order confirming the appointment of the liquidator, fix upon a day upon which the creditors of the company are to come in and prove their debts before the Court, such day to be fixed so as to afford time for the notice thereof hereby required; and the liquidator shall insert in one or more than one newspaper published in Adelaide, and in one or more than one newspaper circulating in the district within which the company's registered office was situated in two consecutive numbers of such newspaper, or, if more than one, of each of them, a notice of such day, the last of which insertions must be not less than fourteen days previous thereto, and requiring the creditors to come in and prove their debts on the said day before the Court as aforesaid, and stating, as is hereby enacted, that any creditor not so coming in shall be excluded from the benefit of any distribution made before the debt of any such creditor shall be proved.

Advertisement for creditors to come in and prove.

96. Proof of a debt by affidavit shall be sufficient, unless the company or any creditor of, shareholder in, or contributory to, it shall require further proof of such debt; and any creditor, shareholder, or contributory may, at any time, by notice to any person claiming to be a creditor of the company, require such person, whether he shall have previously given any proof of the debt claimed by him or not, to appear before the Court on a day not to be less than three days from the time of the service of the said notice, and prove in the ordinary course of law the debt so claimed by him; and in default of his so appearing, or of proving to the satisfaction of the said Court the debt so claimed, or any part thereof, such debt, or such part thereof as shall not be so proved shall not be inserted in the statement next hereinafter mentioned; or, if inserted therein, shall be struck out by the said Court.

Proof of debts by affidavit.

5.—Contributories.

97. If the assets of a company ordered to be wound up shall not be sufficient for payment of its debts and liabilities and of the costs, charges, and expenses of the winding-up, and of such sums as may be required for the adjustment amongst themselves of the rights of the contributories herein described, the following persons shall be liable to contribute to such assets, such persons being hereafter called contributories to the company—

Who are to be contributories.

1. The

*The Mining Companies Act.—1881.***PART II.**

- I. The persons who at the time of the commencement of the winding-up shall be registered in the register of shareholders as holding shares in the company, and the amount of whose shares shall not have been fully paid up :
- II. The real and personal representatives, in a due course of administration, of any shareholder who, if living, would have been a contributor :
- III. The assignee or trustee in insolvency or committee in lunacy of any such shareholder in the representative capacity of such assignee, trustee, or committee :
- IV. Any married woman in whose name any share in the company shall be registered in the company's books :

But no contribution shall be required from any contributory exceeding the amount unpaid on the share in respect of which the contribution shall be required.

6.—Statement of Assets—List of Contributories—Settling thereof, and Proceedings thereunder.

Statement of assets and debts.

And list of contributories.

98. After the realisation of the company's property, including the recovery of such calls as the liquidator shall be able to recover, he shall prepare a statement which shall show the assets of the company, distinguishing the sum or sums produced by the sale or sales of the company's property, and also all other moneys received or recovered by him, or paid in on account of the company, and also showing from, and by whom, and on what account received or paid in ; and also setting forth a list of the debts proved ; and, as far as shall then be known, of the sums which may be required for the adjustment of the rights of the contributories amongst themselves ; and, in case such assets shall not be sufficient to liquidate the debts of the company and for payment of such sums as aforesaid, further stating what contribution per share, so far as the liability thereon will permit, will for those purposes be required from the contributories, and shall also in that case set forth a list of the contributories of the said company, with, annexed to the name of each contributory, the number of shares held by him, and the sum to be paid in respect of such shares. The contribution to be made shall be such a sum upon each share (not exceeding the amount unpaid thereon) as, if paid on every share, would be sufficient, with the assets of the company, to liquidate its debts.

Statement and list of contributories to be lodged in liquidator's office and published in newspapers.

99. The liquidator shall lodge such statement in his office, and immediately after the preparation thereof shall insert in one or more than one newspaper published in Adelaide, and one or more than one newspaper circulating in the district in which the company's office was situated, in two consecutive numbers of such newspaper, or, if more than one, of each of them, a notice that such statement has been so lodged, and, in case such contributions as aforesaid shall be required, that a list of contributories is comprised in the said statement, and

*The Mining Companies Act.—1881.***PART II.**

and that on a day to be named in the said notice, not to be less than fourteen days from the last insertion thereof, the said list of contributories will be settled by the Court, and that on that day, or any day to which such settling shall be adjourned, any objections to the said list by any contributory or creditor will be heard and adjudicated upon by the Court.

100. Upon the day fixed for settling the list of contributories, or upon such other day to which such settling or the continuation thereof may be adjourned, and at which settling the liquidator shall be present, the Court shall, after hearing any objections and answers to the list which may be urged, by the company or any contributory or creditor or by the liquidator, and on being satisfied that the contributions mentioned in such list will be necessary for the purposes aforesaid, settle such list, amending or altering the same if proper to do so, and with power on such settling to rectify the register of shareholders in all cases where such rectification is required for the purposes of justice.

Settling of list of contributories.

101. After such list shall be settled the Court shall make an order that the persons whose names shall be then thereon as contributories shall respectively pay the respective amounts which shall then be annexed to their names respectively, and such order shall be filed in the Court.

Order on contributories to pay.

102. Immediately after the making of the said order the liquidator shall send by post, in a prepaid letter, to each contributory a notice of the sum to be paid by him, setting forth the respective numbers of the shares in respect of which contributions are due, and the respective amounts of such contributions, and requiring such sum to be paid to him, the said liquidator, within ten days after the insertion of the last of the said advertisements. Such notice shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Notice to contributories.

103. At any time after the making of the said order any person named as a contributory on the said list may, on notice to the liquidator, apply to the Court or a Judge thereof that his name be removed from the said list, or that he be rated at a sum less than that which by the said list he is charged with, and the Court or Judge shall thereupon make such order as shall be right, and in the latter case, if so ordered, the order for payment of contributions shall apply to such lesser sum.

Contributory may apply for removal of his name from list.

104. The order for payment of contributions shall, as against each contributory personally liable, have the same force and effect as a judgment recovered in an action in the Supreme Court against such contributory, and upon such order being filed with the proper officer of the Court may forthwith be enforced in the same manner

Order to pay equivalent to an order of Justices.

*The Mining Companies Act.—1881.***PART II.**

as orders of the Supreme Court or a Judge thereof are enforceable under the Supreme Court Act, 1878, and the rules thereto. If any such contributory shall be liable in a representative capacity, the amount payable by him under the said order may be recovered by the liquidator, in the case of a real or personal representative, in an action in any Court having jurisdiction, to the amount claimed, and, in the case of the assignee or trustee of the estate of an insolvent or person whose estate is under liquidation, by proof thereof against such estate, and obtaining thereout in due course of law such amount or such dividends thereon as can be obtained.

Further contributions.

105. In case the full amount of the said contributions cannot be obtained, and the contributions ordered shall not have been to the full extent of the amount unpaid on the shares of the contributories, the liquidator shall prepare and lodge as aforesaid a further statement, setting forth the amount of the debts of the company still remaining unpaid, the amount necessary for their payment, and for the payment of the other sums aforesaid, the names of the persons who are to contribute to that amount, and the sum to be contributed by each, and the same course as to advertising and settling the list of contributories in the last-mentioned statement shall be pursued as herein is directed in regard to the list in the first-mentioned statement; and a corresponding order shall be made thereon with the like force and effect, and in like manner enforceable and recoverable, and a corresponding notice thereof given, and the person required to contribute may apply for a like order for removal of his name from such second list.

No contributory to stand on second list except so far as former contributories unable to pay.

106. Before settling any such second list of contributories the Court shall determine whether, and to what extent, the sums therein charged are necessary, having regard to the possibility or otherwise of recovering from any of the contributories in the first list the contribution or contributions theretofore charged against him or them or any part thereof: And the Court or Judge shall allow the names on such second list to stand for such sums only as shall be necessary, having regard to such possibility or otherwise; but may afterwards amend such list by increasing the sums so allowed, in case the inability to recover any contributions shall make the same necessary, and shall be shown to its satisfaction.

When useless to proceed against a contributory.

107. In determining upon such possibility or otherwise, the Court, in any case where the liquidator shall state that he has not taken legal steps to enforce against any contributory the contribution ordered against him on the ground that such steps would be fruitless, may, on such evidence being given as it shall think sufficient of the truth of such statement, accept the same as proof of the impossibility of recovering such contribution, and act accordingly.

Liquidator may prove insolvency of or administer estates contributory.

108. The liquidator may prove in the matter of the insolvency of any contributory any contribution ordered to be paid, or other debt due,

*The Mining Companies Act—1881.*PART II.

due, by such contributory to the company, and receive dividends in respect thereof, and if necessary, in order to obtain payment out of the estate of any deceased contributory of any contribution ordered to be paid by him or other debt due by his estate to the company, take out letters of administration to such contributory; and bring any action or suit or take any other legal proceeding and do any other act that may be necessary for the purpose of recovering such contribution or debt, or for obtaining payment of any moneys due to or recovering the estate and effects of the company from a contributory or his estate, or from any other person or his estate, and which cannot be conveniently done in the name of the company, in all which cases the moneys claimed by him shall, for the purpose of enabling him to take such proceedings and recover such moneys, be deemed to be due to himself, and may also, with the sanction of the Court or Judge, defend any action, suit, or other legal proceeding.

109. The Court may, on the application of the company or of any contributory thereto or creditor thereof, control the action of the liquidator in any of the matters in the next preceding section authorised, and on such application make such order in respect of such matters as it shall think fit.

Courts may control liquidator in any of proceedings.

110. In any action, suit, or other proceeding brought or taken by or against a liquidator he shall be described by his proper name, followed by the words "liquidator of the company," inserting the name of the company in full.

How liquidator described in actions, &c.

Extraordinary Powers of Court.

111. The Court may, after it has made an order for winding up the company, summon before it any officer of the company or person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate, or effects of the company, and the Court may require any such officer or person to produce any books, papers, deeds, writings, or other documents in his custody or power relating to the company; and if any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment made known to the Court at the time of sitting and allowed by it, the Court may cause such person to be apprehended and brought before the Court for examination; nevertheless in cases where any person claims any lien on papers, deeds, or writings, or documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to such lien.

Power of Court to summon persons before it, suspected of having property of company.

112. The

The Mining Companies Act.—1881.

PART II.

Examination of
parties by Court.

112. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person, appearing or brought before them in manner aforesaid, concerning the affairs, dealings, estate, or effects of the company, and may reduce into writing the answers of every such person and require him to subscribe the same.

Power to arrest contributory about to abscond, or to remove or conceal any of his property.

113. The Court may, upon proof being given that there is probable cause for believing that any contributory is about to quit the said province, or otherwise abscond or to remove or conceal any of his goods or chattels for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the company, cause such contributory to be arrested, and his books, papers, moneys, securities for moneys, goods, and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Powers of Court
cumulative.

114. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting, either at law or in equity, of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the company, for the recovery of any call or other sums due from such contributory, or debtor, or his estate, and such proceedings may be instituted accordingly.

Special Commissioners for receiving evidence.

115. The Judges of the Supreme Court shall be Commissioners for the purpose of taking evidence under this Act, and every such Commissioner shall, in addition to any power of summoning and examining witnesses, and requiring the production or delivery of documents, and certifying or punishing defaults by witnesses which he might lawfully exercise as Judge of the Supreme Court, have in the matter so referred to him all the same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs, and charges, and expenses to witnesses as the Court which made the order for winding up the company has, and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

7.—Plan of Distribution.

Plan of distribution.

116. After the property of the company shall be realised and the contributions required and obtainable be paid, the liquidator shall, with the approval of the Court, prepare a schedule showing the realised amount of the assets, including the contributions and the liabilities of the company, the amount of moneys available for the claims in the matter of the winding-up, and the proposed plan

*The Mining Companies Act.—1881.***PART II.**

plan of distribution thereof. Such schedule as regards the said distribution shall be as follows—

£ s. d.

- i. The costs, charges, and expenses incurred in the winding-up as and to the extent which the Court shall direct
- ii. The remuneration of the liquidator and of his clerk (if any)
- iii. Four weeks' wages in full as a preferential claim over mortgages and all other debts of the company to any laborers employed by the company in or about its mine, or for any wages due on tribute or contract work, provided so much shall have been actually and *bond fide* due when the winding-up order was made
- iv. Any rent which may be due by the company at the commencement of the winding-up, not exceeding three months' rent
- v. The debts of the company as far as such moneys will extend, having regard to any legal priority which may exist as amongst the said debts, and so far as there is no such legal priority the debts shall be paid *pari passu*, including the balance of any rent due after the payment of three months' thereof, and the balance of any wages due, as above provided

117. Upon the completion of the schedule the liquidator shall publish in the *Gazette* a notice stating that the schedule is open in his office for inspection by the contributors to and creditors of the company, and that the claims mentioned in the schedule will, after the lapse of fourteen days from the publication of the notice, be paid at the said office.

Notice of plan of distribution.

8.—*Distribution of Surplus.*

118. The Court or a Judge shall adjust the rights of the contributors amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

Distribution of surplus.

9.—*Dissolution of Company.*

119. When the winding-up of a company shall be completed the Court or Judge shall make an order that the company shall be dissolved from the day of the date of such order, and the company shall be dissolved accordingly; and by such order the Court or Judge shall direct the manner in which the books and documents of the company are to be disposed of.

Order dissolving the company.

120. Any petition to wind up a company under this Act, and all applications incidental to the winding-up, may be heard and disposed of

Petition may be heard by Judge of Supreme Court.

*The Mining Companies Act.—1881.***PART II.**

of by a Judge in chambers. And any Judge of the said Court shall have, and may exercise all the powers of the Court in respect of such petition and all applications and matters relating thereto or to the winding-up, and the Court or Judge may refer to the Master of the Court any matter arising under this Act.

10.—Voluntary Winding-up.

Voluntary winding-up.

121. When at an extraordinary meeting of a company, which shall not then be in debt, two-thirds in number and value of the shareholders therein shall have passed a resolution requiring the company to be voluntarily wound up, the said company may be wound up, without resort to the Court, and such majority shall thereupon by resolution determine the course to be pursued by the directors for the purpose, and the mode of disposal of any surplus of the company's property which may remain after the completion of the winding-up; and on such winding-up being completed such company shall become dissolved, and the books and documents thereof be disposed of as such majority shall direct.

PART III.**PART III.****PREPAYMENT COMPANIES.**

Prepayment companies.

122. A company may be formed under this Act on a system to be called the "Prepayment System." In such a company no part of its expenditure incurred at or previous to the time of making a call shall be paid out of the call; but some time before the commencement of each month the company shall make an estimate of the sum which will probably be required for its working expenses during such month, and which cannot be paid otherwise than by means of a call, and shall make a call of so much per share, not exceeding the amount unpaid thereon, and not exceeding the amount of a call as fixed by the company's rules or deed of association, as shall be necessary for the payment of that sum or so much thereof as the calls available will be sufficient to meet. Notice of the call shall be published in the *Gazette*, in a daily newspaper published in Adelaide, and in one or more papers circulating in the locality wherein the registered office of the company shall be situated, and shall require payment thereof at the company's registered office on the day on which calls are by the First Part of this Act to be due, which shall occur next before the commencement of the said month; and the call shall from that day be a debt due by the shareholder to the company.

Liability of director incurring extra unauthorised expenditure.

123. Any director of such company who shall incur or authorise any expenditure in the business of the company beyond what the sum realised by means of such call shall be sufficient to meet, unless such extra expenditure shall be made out of money borrowed with the sanction of an extraordinary meeting of the company, or out of profits

The Mining Companies Act.—1881.

profits, shall be personally liable for such expenditure, and neither the company nor its property shall be liable therefor.

PART III.

124. Subject as aforesaid and also to the following qualifications, Parts I. and II. of this Act, shall, so far as they are capable of doing so, apply to prepayment companies—

Application of Parts I. and II. to prepayment companies.

- i. In the memorandum to be lodged with the Registrar of Companies for the purposes of obtaining registration the expression “with prepayment” after the word “limited” shall be used, and there shall be added in the entry by the said Registrar of Companies in the mining companies register-book, as required by section seven, and in all other cases, to the name of every such company the words “Limited with prepayment”:
- ii. For section twenty-three shall, as regards such companies, be substituted the following section:—The manager for the time being of a prepayment company may make contracts on behalf of the company for the purchase of goods or the performance of work and the supply of the materials for the same to an amount in the aggregate not exceeding the sum which at the time of making of any such contract shall be standing to the credit of the company in respect of calls paid in. Every such contract shall be binding on the company, and on the assets thereof, which assets may be seized and sold in execution in any action against such company upon any such contract, but no such contract shall be binding upon the manager himself.

PART IV.**PART IV.****NO-LIABILITY COMPANIES.**

125. Companies may be incorporated under this Act for mining purposes on a system to be called “The No-liability System.” Every company so incorporated shall add to its name the words “No-liability.”

No-liability system.

126. The acceptance of a share in any such company, whether by original allotment or by transfer, shall not be deemed a contract on the part of the person accepting the same to pay any calls in respect thereof, or any contribution to the debts and liabilities of the company, and such person shall not be liable to be sued for any such calls or contributions; but he shall not be entitled to a dividend upon any share upon which a call shall be due and unpaid.

Shareholder not liable to calls or contributions.

127. Subject as aforesaid, and also to the qualifications following, Part I. of this Act shall, so far as it is capable of doing so, apply to no-liability companies—

Application of Part I. to no-liability companies.

1. It shall be necessary that five per cent. of the subscribed capital shall be paid up prior to registration and a statutory declaration

*The Mining Companies Act.—1881.***PART IV.**

declaration made by the manager verifying such payment shall be filed with the Registrar of Companies :

Seventh Schedule.

II. The memorandum to be lodged with the Registrar of Companies for the purpose of obtaining registration of any such company shall be in the form and contain the statements in the Seventh Schedule hereto :

III. In the entry to be made by the Registrar-General in the mining companies register-book as required by section seven the words "No-liability" are to be added to the name of the company instead of the words "Limited"; and, generally, instead of that word the words "No-liability" are to be added as part of the company's name :

IV. The following sections shall not apply to such companies:— sections fifteen, twenty-eight, so far as it requires that on the transfer of a share the amount thereof shall be paid up ; thirty-one, so far as it requires that on such transfer no sum shall be due for calls ; forty-nine, so far as it relates to the payment of calls ; fifty-two, so far as it relates to the liability of directors ; fifty-five, fifty-six, fifty-seven, and fifty-eight :

Forfeited shares.

v. For sections fifty-seven and fifty-eight shall be substituted the following section:—Any share upon which a call shall at the expiration of fourteen days after the day for its payment be unpaid shall thereupon be absolutely forfeited without any resolution of directors or other proceeding. The share, when forfeited, shall be sold by public auction, advertised in the *Gazette* not less than seven nor more than fourteen days before the day appointed for the sale, and the proceeds shall be applied in payment of the call unpaid thereon and of the expense of the advertisement, and of any other expenses necessarily incurred in respect of the forfeiture, and the balance (if any) shall be paid to the shareholder on his delivering to the company the scrip representing the forfeited share :

vi. No provision in the said Part I. relating to the liability of members of a company shall apply to no-liability companies.

Winding-up of no-liability companies

128. Part II. of this Act, with the exception of all the provisions therein relating to calls or contributions, shall apply to the winding-up of no-liability companies.

Distribution of surplus.

129. If after all the liabilities of a no-liability company shall be discharged there shall remain any surplus of its property the same shall be distributed amongst the parties entitled thereto ; and after the complete distribution of the assets of the company the Court shall make an order that the company shall be dissolved from the day of the date of such order, and the company shall be dissolved accordingly ;

The Mining Companies Act.—1881.

accordingly; and the Court shall, by such order, direct the manner in which the books and documents of the company are to be disposed of.

PART IV.

PART V.

PART V.

EXTENSION OF ACT TO OTHER COMPANIES.

1.—*Companies under "The Miners Act, 1865."*

130. Any company registered under "The Miners Act, 1865," or "The Companies Act, 1864," or any Act amending the same, or formed for mining purposes previously to the passing of this Act, may, with the consent of a majority in number and value of the shareholders in such company, present in meeting personally, or by proxy, and with the consent in writing of the creditors (if any), be incorporated as a no-liability company.

Previously registered companies may be registered as no-liability companies.

131. Part IV. of this Act shall apply to any such companies seeking to be or becoming so incorporated.

Part IV. to apply in such case.

132. On the registration of any such company as a no-liability company all liability of the shareholders for calls shall, from thenceforth, cease. In the event of the winding-up of such a company, the shareholders shall not be bound to contribute to the debts or liabilities of the company.

On registration as a no-liability company liability of shareholders to cease.

133. Until any company registered under "The Miners Act, 1865," shall be registered as a no-liability company it shall, from and after the time of the commencement of this Act, be deemed to be registered and incorporated under Part I. of this Act, and if after that time commenced to be wound up, shall be wound up under Part II. of this Act, the provisions of which shall, in such case, apply to such company.

Until such registration to be deemed to be incorporated under First Part.

134. All Acts and rules heretofore done and made by, and all deeds and articles of association of, any such last-mentioned company, and all actions and other proceedings pending at the time of the commencement of this Act under the said last-mentioned Act, except as to windings-up so far as the same are to be continued under this Act, shall have the same force and effect and be carried on as if this Act had not passed; and all documents which were by the said Act made evidence of any matters or things shall continue to be such evidence as thereby ordained; and all rights as to increasing capital, borrowing money, and otherwise, and all liabilities of any such company, shall continue in force for and against it notwithstanding its constructive incorporation under this Act; and such company may, after such its incorporation, sue or be sued as theretofore in respect of any such right or liability; but all acts and proceedings of any such company hereafter to be done and commenced, unless and until it shall be registered as a no-liability company, shall be governed by

Saving of previous proceedings.

The Mining Companies Act.—1881.

PART V.

When companies under "The Miners Act, 1865," may be wound up under this Act.

this Act, except Parts III. and IV. thereof; and every such company must, within thirty days after this Act shall come into operation, send to the Registrar of Companies a notice of the name of its manager and of the situation of its registered office.

135. If at the time of the coming into operation of this Act any such last-mentioned company shall be in course of being wound up, the Court before which the winding-up shall be pending may, if it shall think that no prejudice would be thereby done to any person, and on being satisfied that three-fourths in number and value of the creditors of such company require the same, order that such winding-up shall be continued under Part II. of this Act, and thereupon such winding-up shall, so far as will be possible, be so continued, and a liquidator be appointed, and other things done necessary to give effect to such order; and upon such order being made, the duties, authorities, and rights of the Directors who had been acting in such winding-up shall cease; but such Directors shall be accountable to the liquidator so to be appointed, as such liquidator, for the acts and receipts done and received by them in the course of winding up.

Declarations, before whom to be made.

136. All declarations required to be made under this Act shall be taken and made before a Justice of the Peace for the said province, or a Commissioner for taking Affidavits in the Supreme Court.

PART VI.

PART VI.**MISCELLANEOUS.**

Service of notices.

137. Except where otherwise herein, or in any schedule hereto provided, notices required to be served on individuals under this Act may be served personally, or at the dwelling of the person to be served, upon any inmate of years of discretion, or at the place of business of such person, upon his servant or agent there employed; and an affidavit of the service by the person effecting the same must be indorsed upon or written under a copy of the notice served, describing how the same has been served, and such affidavit shall be *prima facie* evidence that such notice was duly served.

Company may adopt rules in Eighth Schedule.

138. In the making or altering of any rules under this Act, a company may adopt as rules any of the articles contained in the Eighth Schedule hereto, or may so adopt any of the same modified as it shall think fit, but so as not to be inconsistent with the provisions of this Act.

Court may make rules.

139. The Supreme Court or any two of the Judges thereof may from time to time make such rules as the said Court or Judges shall deem necessary for carrying into effect the objects and provisions of this Act, and may, from time to time, alter, revoke, and vary such rules

The Mining Companies Act.—1881.

rules and make such new and additional rules as the said Court or Judges shall deem necessary; and until such rules are made the practice of the Court in matters of the same nature, shall, so far as the same is applicable, be followed.

PART VI.

140. All orders made by the Court or a Judge under this Act may be enforced in like manner in which any order of the Supreme Court or a Judge made in any action, cause, or matter pending therein, may be enforced; and all rules made in pursuance of the next preceding section shall have the same effect and be subject to the same conditions as if they were rules of the Supreme Court, made under any Act now or hereafter in force enabling the Supreme Court or the Judges thereof to make rules.

Power to enforce orders made.

PART VII.**PART VII.****OFFENCES.**

141. If any company shall carry on business without having a registered office as required by this Act it shall be liable to a penalty not exceeding Five Pounds for every day during which business shall be so carried on.

Penalty on company for not having an office.

142. Any manager of a company shall in each of the following cases be guilty of a misdemeanor, and on conviction thereof be liable to be imprisoned for any time not exceeding twelve months—

Liability of managers as for misdemeanor.

- i. If he shall wilfully neglect to make in the share-register of the company any transfer of any share which it is his duty to make, or if he wilfully make any false entry of such transfer in such register :
- ii. If he shall wilfully make any false entry or statement in any accounts which he is hereby directed to keep :
- iii. If after having been lawfully directed to do so he shall wilfully neglect or refuse to lodge with the liquidator the register of the shareholders in a company ordered to be wound up, and all other books, documents, and other property of such company in his possession or under his control, together with the list thereof, subscribed with the statutory declaration hereinbefore in that behalf mentioned :
- iv. If at the expiration of six months from the time at which a company shall have ceased to carry on business without being wound up, or of such extended time therefor as shall be allowed by the Court or Judge, he shall not deposit with the clerk the said register and all other books and documents belonging to the company in his possession or under his control.

143. Any

*The Mining Companies Act.—1881.***PART VII.**

Liability of manager
to penalties.

143. Any such manager shall in each of the following cases be liable to a penalty not exceeding Fifty Pounds—

- i. If he shall wilfully neglect to lodge the notices in respect of the registered office of the company of which he is manager, or in respect of the manager, or to publish copies thereof or advertisements in the *Gazette* and newspapers as hereinbefore directed :
- ii. If he shall wilfully omit to keep such accounts as he is hereinbefore required to keep :
- iii. If he shall wilfully refuse to permit any person to inspect, or obstruct any person in inspecting, any book or account of a company or report of directors thereof which such person is entitled to inspect, or shall, on the tender to him of Two Shillings and Sixpence, wilfully refuse to permit any such person to inspect, or obstruct him in inspecting, any statement to the inspection of which such person shall, on the payment of the said sum, be entitled under the provisions hereof :
- iv. If, upon such request and payment as hereinbefore in that behalf directed, he shall wilfully refuse or neglect to furnish any copy of accounts or of any statement which, on such request and payment, he is hereby required to furnish.

Director omitting to
make reports or state-
ments, or making
false statements.

144. Any director of a company who shall wilfully omit duly to lodge in the company's office any report which he is hereby required so to lodge, or to cause to be made any statement which he is hereby required to cause to be made, having at his disposal funds of the company sufficient to enable him to cause the same to be printed, or who shall wilfully make any false statement in any such report or statement, shall for every such offence be liable to a penalty not exceeding One Hundred Pounds.

Director obstructing
inspection of books.

145. Any director who shall wilfully refuse to permit any person to inspect, or obstruct any person in inspecting, any book or account of a company, or any report or statement of the directors thereof which such person is entitled to inspect, shall be liable to a penalty not exceeding Fifty Pounds.

Liability of liquidator
as for misdemeanor.

146. Any liquidator of a company shall in each of the following cases be guilty of a misdemeanor, and on conviction thereof shall be liable to be imprisoned for any time not exceeding two years—

- i. If he shall wilfully make any false statement in any statement, list, or schedule which he is hereby directed to prepare, set forth, or make :
- ii. If he shall state to the Court that the taking of legal proceedings to enforce a contribution against a contributory would be fruitless, not having reasonable grounds for believing the same.

147. Any

The Mining Companies Act.—1881.

147. Any liquidator who shall wilfully omit to perform any duty in other respects hereby imposed upon him, shall be liable to a penalty not exceeding Fifty Pounds.

PART VII.

Liability of liquidator to penalty.

148. If any person wilfully make a false declaration under this Act he shall be guilty of a misdemeanor, and be liable to be imprisoned for any term not exceeding four years with hard labor.

False declaration misdemeanor.

149. If any person wilfully falsify any book or account of any company under this Act, or sign any memorial, or notice required by this Act, knowing the same to be untrue, he shall be guilty of a misdemeanor, and liable to be imprisoned for a term not exceeding two years.

Penalty for falsification of books or notices.

150. Any person who shall forge or alter or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any scrip certificate, or any document purporting to be a scrip certificate issued in pursuance of this Act, or who shall demand or endeavor to obtain or receive any share or interest of, or in, any company under this Act, or to receive any dividend or money payable in respect thereof by virtue of any such forged or altered scrip certificate or document purporting as aforesaid, knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding five years, with or without hard labor, and with or without solitary confinement.

Penalties on persons committing forgery.

151. Any person who shall falsely and deceitfully personate any owner of any share or interest in, any company issued in pursuance of this Act, and thereby obtain or endeavor to obtain any such share or interest, or receive, or endeavor to receive, any money due to any such owner as if such person were the true and lawful owner shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding five years, with or without hard labor and with or without solitary confinement.

Penalties on persons falsely personating owner of shares.

152. It shall be the duty of the Court in case at any time it considers it has reason to believe that any of the offences mentioned in this part of this Act has been committed, to direct that a prosecution therefor shall be instituted by any Crown prosecutor or other proper officer.

Court may direct prosecution in certain cases.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES.

The Mining Companies Act.—1881.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

Date of Act.	Title of Act.	Extent of Repeal.
28 & 29 Vict. No. 13.	An Act for the Formation of Companies and Association of Miners, with power to limit their liabilities to the amount of shares subscribed for.	The whole.

SECOND SCHEDULE.

Section 6.

I, the undersigned, hereby make application to register [*here insert the name of the company*] as a Limited Company [*or Limited with Prepayment, as the case may be*] under the provisions of "The Mining Companies Act, 1881."

1. The name of the company is to be
2. The place of operations [*or intended operations*] is at
3. The registered office of the company will be situated at
4. The nominal capital of the company is pounds in shares of each.
5. The number of shares subscribed for is being not less than two-thirds of the entire number of shares in the company.
6. The number of paid-up shares (if any) is
7. The amount already paid up is
8. The name of the manager is
9. The names and addresses and occupations of the shareholders and the number of shares held by each at this date are as follows:—

[*Here set forth names, &c., of shareholders.*]

A.B., Manager.

Dated this day of 18
Witness to signature, C.D.

I, A.B., do solemnly and sincerely declare that—

1. I am the manager of the said intended company.
2. The above statement is, to the best of my belief and knowledge, true in every particular. And I make this solemn declaration conscientiously believing the same to be true.

Taken before me, &c.,
J.P.

THIRD SCHEDULE.

Section 10.

This is to certify that a mining company called "The Company Limited" [*or "Limited with Prepayment" or "No-liability," as the case may be*] was, on the day of 18 , by virtue of "The Mining Companies Act, 1881," incorporated, a memorandum pursuant to the said Act having been duly lodged in the office of the Registrar of Companies, and published in the *Government Gazette* of the day of and in the newspaper of the day of [*if any other newspaper mention it*]; and copies of the said *Gazette* and newspaper [*if a copy of rules has been forwarded add,* and also a copy of proposed rules of the company] have been duly forwarded to the said office.

Given under my hand this day of

F.G., Registrar of Companies.

FOURTH

The Mining Companies Act.—1881.

FOURTH SCHEDULE.

Table of Fees to be paid to the Registrar of Companies by a company registered under this Act.

	£	s.	d.
On lodging memorandum and declaration under section 6	2	0	0
On filing notice of registered office	0	5	0
On filing notice of appointment of manager	0	5	0
On filing notice of increasing capital	0	10	0
On filing rules	0	5	0
On filing any other notice or document required to be filed or registered under this Act, or making a record of any fact hereby authorised or required to be recorded by the Registrar of Companies	0	5	0

FIFTH SCHEDULE.

[Name of Company.]

INCREASE OF CAPITAL.

I, the undersigned manager, hereby give notice that an increase in the capital of Section 48. the above-named company was on the day of 18 resolved on.

The mode adopted for the increase is by raising the amount of each of the [state number of the shares in company] shares existing in the company from pounds to pounds.

Or,

The mode adopted for the increase is by issuing [state number of new shares] new shares of pounds each in addition to the [state number of existing shares] shares now existing in the company.

Or,

The mode adopted for the increase is by raising the amount of each of the [state number of the shares in the company] shares existing in the company from pounds to pounds, and by issuing [state number of new shares] new shares of pounds each in addition to the said existing shares.

(Such of the above three last forms as is applicable to the case is to be followed.)

(If any of the new shares are preference shares so state, and the terms upon which issued.)

Date

A.B., Manager of the above-named company.

C.D. }

E.F. }

Directors of the above-named company.

1. I, A.B., of do solemnly and sincerely declare that the foregoing statement is, to the best of my knowledge and belief, true in every particular.

2. I am the manager of the above-named company.

3. C.D. and E.F., whose signatures are affixed to the said statement, are directors of the said company. And I make this solemn declaration, conscientiously believing the same to be true.

SIXTH SCHEDULE.

In the Supreme Court

day the day of 188 .

Section 68.

In the matter of the "Y— Z— Company, Limited" [or Limited with Prepayment or No-liability, as the case may be] and of the "Mining Companies Act, 1881."

Upon the petition of the above-named company [or of A.B., of, &c., a creditor of or shareholder in the above-named company] on the day of 188 , presented to this Court [or to me, A.B., the Judge of the said Court] and upon hearing the petitioner [or counsel or the attorney for the petitioner] and the company [or such other person as may oppose the petition] [or counsel or the

The Mining Companies Act.—1881.

the attorney for the company (*or such other person*) and upon reading the said petition and an affidavit of _____ verifying the same and [*if any other evidence has been adduced for or against the petition*] upon the other evidence adduced in this matter, the Court doth order [*or I do order*] that the said company be wound up under the provisions of the said Act, and the Court doth [*or I*] appoint the day of _____ 188____, as the day for a general meeting of the creditors of the above-named company, to be held at _____; and the Court doth [*or I*] direct that this order be served upon _____ by [*post or otherwise*].

SEVENTH SCHEDULE.

Section 122.

I, the undersigned, hereby make application to register [*here insert the name of the company*] as a no-liability company under the provisions of "The Mining Companies Act, 1881."

1. The name of the company is to be
2. The place of operations [*or intended operations*] is at
3. The registered office of the company will be situated at
4. The value of the company's property, including claim [*or leased ground*] and machinery, is
5. The number of shares in the company is _____ of _____ each.
6. The number of shares subscribed for is
7. The name of the manager is
8. The names and addresses and occupations of the shareholders and the number of shares held by each at this date are as below.

[*If the memorandum be lodged by a previously registered company the following statement is to be added, otherwise not.*]

9. A majority in number and value of the shareholders in and the creditors (if any) of the company in writing have consented to its incorporation as a no-liability company.

[*Here insert names, &c., of shareholders.*]

A.B.
Manager.

Dated this _____ day of _____ 18____

Witness to signature, C.D.

I, A.B., do solemnly and sincerely declare that—

1. I am the manager of the said intended company.
2. The above statement is, to the best of my belief and knowledge, true in every particular. And I make, &c. [*conclude this declaration as in the form in the Second Schedule.*]

Taken before me, &c.,
J.P.

EIGHTH SCHEDULE.

DIRECTORS.

Qualification of Directors.

1. No person shall be qualified to be a director unless he is a shareholder, and the holder in his own right of _____ shares or more in the said company.

Retirement of Directors.

2. At the first general meeting of the company to be held in the month of _____, one thousand eight hundred and eighty____, the whole of the directors shall retire from office, and at the general meeting to be held in the said month in every subsequent year one-third of the directors for the time being, or if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

3. The

The Mining Companies Act.—1881.

3. The one-third or other nearest number to retire during the first and second years ensuing the first of the general meetings above-mentioned shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year the one-third or other nearest number who have been longest in office shall retire.

4. A retiring director shall be re-eligible.

5. The company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of shareholders qualified as aforesaid to be directors.

6. If at any meeting at which an election of directors ought to take place the places of the retiring directors are not filled up the meeting shall stand adjourned till the same day in the next week, at such hour and place as the majority of shareholders present at the meeting shall decide; and if at such adjourned meeting the places of the retiring directors are not filled up the retiring directors, or such of them as have not had their places filled up, shall continue in office until the general meeting to be held in the said month in the next year, and so on from time to time until their places are filled up.

7. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

Disqualification of Directors.

8. The office of director shall be vacated—

If the person filling it shall cease to be a shareholder, or to be the holder of shares in his own right in the company;

If his estate shall be sequestrated or brought under liquidation or composition under any Insolvency Act;

If he shall assign his estate for the benefit of his creditors;

If he shall hold any other office or place of profit under the company;

If he shall be concerned in, or participate in the profits of, any contract with the company.

But the above rules shall be subject to the following exceptions:—That no director shall vacate his office by reason of his being a member of any company which has entered into contracts with, or done any work for, the company of which he is director; nevertheless he shall not vote in respect of such contract or work, and if he does so vote his vote shall not be counted.

Resignation of Directors.

9. A director may resign his office by sending in his resignation to the manager.

Removal of Directors.

10. If any director shall refuse or neglect, or become unfit or incapable, by reason of his absence from the colony or otherwise, to act in his office, he may be removed therefrom by the other directors at a meeting of directors, at which all such others shall be present.

Occasional Election of Directors.

11. When a director shall cease to be such by reason of his office becoming vacated, as above mentioned, or of his resigning, or being removed, or of his dying, the other directors shall, at a meeting to be held by them at which a quorum shall be present, elect any shareholder not then a director of the company, qualified as aforesaid, to be a director in the place of the director ceasing to be such: Provided always, that the first general meeting held subsequently to any such appointment shall confirm such appointment, or elect some other qualified shareholder to the vacant office; and in either case the shareholder appointed shall continue in office for so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

Meetings of Directors.

12. That a meeting of directors shall be held at least once in every fortnight.

13. directors shall form a quorum, and shall have and exercise all the powers and authorities vested in the board of directors generally as fully and effectually as if all the directors had concurred therein; and when any duty is by the foregoing Act or these rules imposed on directors, the same shall be deemed to be imposed on such quorum.

14. The

The Mining Companies Act.—1881.

14. The directors may regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

15. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

16. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed upon it by the directors.

17. A committee may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

18. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the chairman shall have a second or casting vote.

19. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of such directors or persons acting as aforesaid, or that they or any of them be disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Powers of the Directors.

20. The business of the company shall be managed by the directors, who shall, in addition to their powers under the foregoing Act, and subject to the provisions thereof, and to the rules for the time being of the company, have control and disposal of the funds and property of the company consistently with the objects thereof, and shall have the appointment of all bankers, legal advisers, agents, clerks, servants, and mining manager or managers, of the company, and shall allow them respectively such reasonable fees, costs, charges, salary, wages, or other benefit as they may think fit, and from time to time may suspend, remove, or dismiss any such person or persons and appoint such other or others in his or their stead as they shall in each and every case think proper, and may make calls or declare dividends and accept contracts on behalf of the company, and affix the common seal of the company to such contracts as shall require to be under such seal, and purchase such adjoining claim or claims or interest therein, or in any mining property, and purchase or hire such machinery or apparatus, and make such agreement or agreements for the working of any mine or claim or otherwise for the benefit of the company as they may deem advisable, and may make such agreement or agreements for compromising or settling any action, suit, or other proceeding or any mining dispute as the legal advisers of the company may recommend, and the powers of the directors shall not cease or be suspended so long as the board of directors shall consist of a sufficient number of members to form a quorum, and the directors shall also have and exercise all or any special powers which may be vested in them by these rules or any subsequent rules made in accordance with the provision in that behalf hereinafter contained.

Remuneration of Directors.

21. The board of directors shall receive as remuneration for their services such sum as may from time to time be fixed at any general or special meeting, to be paid out of the funds of the company, and to be divided amongst the directors as they may fix amongst themselves.

MANAGER.

22. The manager shall keep all the books and accounts of the company, including the book required by the thirty-third section of the foregoing Act to be kept, in which he shall, besides the matters to be inserted therein as directed by the Act, enter the particulars of transfers of shares, the calls paid or due on shares, and a note of such shares as may be forfeited, and also including the books and accounts required to be kept by the thirty-sixth section of the said Act, and such other particulars relative to the accounts of the company as the directors may from time to time require. The manager shall also keep a book or books in which he shall enter minutes of proceedings

The Mining Companies Act.—1881.

proceedings at all meetings of the company and of the directors, and such books shall be kept at the registered office of the company, and at all reasonable times shall be open to the inspection of every shareholder for the time being. The manager shall make out at least once in every three months, and prior to the holding of each of the general meetings hereinafter mentioned, a fair balance-sheet of the accounts of the company, and also a report of the works of the company, which balance-sheet and report shall be submitted to the general meeting which shall be held next after the making out thereof; and the said manager shall also publish in the *Government Gazette* a copy of each half-yearly statement, to be made pursuant to the thirty-seventh section of the foregoing Act, within days after such statement shall be made; and shall give, forward, and publish all necessary notices in reference to meetings, calls, or other business of the company; shall convene the meetings of the company, and of the directors; shall collect and pay the accounts of the company; shall see that the orders and directions of the meetings of the company and directors are properly carried out; and shall do all further acts which shall be necessary and ought to be done by a manager in accordance with the said Act and these rules: Provided always that in the management, as aforesaid, he shall be subject to the direction and control of the directors.

23. The manager for the time being, and if the directors shall so think fit, any person appointed or substituted as hereinafter provided for to transact the business and perform the duties of manager, shall, within four weeks of the date of his being appointed manager, or, in the case of a person being so appointed or substituted, within such time as the directors shall appoint, give security to the company, in the case of the manager in the sum of Five Hundred Pounds at least, and in case of a person so appointed or substituted, in such sum as the directors shall direct, that such manager or person will not embezzle, make away with, waste, or destroy any property belonging to the company whilst acting as such manager or transacting the business or performing the duties of manager, as the case may be, such security to be given by a guarantee society.

24. It shall be the duty of the manager at any time to convene a special meeting of the directors at the request of any two of the directors.

25. The directors may, at any meeting to be held by them, suspend the manager for the time being, and in any such case they shall immediately thereafter call a special meeting of the company, and any special meeting of the company shall have power to confirm such suspension, or remove or suspend the manager for the time being, and to appoint or substitute a new manager, or to annul such suspension and to reinstate the manager in his office; and upon the resignation or during the temporary absence or illness or suspension of the manager, or any interval between his resignation or removal, and the appointment or substitution of a new manager in his stead, any other person may be appointed or substituted by the directors to transact the business and perform the duties of manager; and all persons so appointed or substituted shall and may perform all such acts as could be lawfully done by the manager of the company: Provided always, that should the manager be desirous of resigning his appointment, he shall give one month's notice in writing to the board of directors of his intended resignation.

MEETINGS.

26. There shall be general meetings of the company in each year, and the first of such meetings shall be held some time during the first fourteen days of the month of one thousand eight hundred and , at such place as the directors may appoint, and thereafter such meetings shall be held within the first fourteen days of the months of and in each year, and every such meeting shall be convened by notice from the manager by advertisement inserted consecutive times in the newspaper published at Adelaide, and in a newspaper published in , stating the day, hour, and place of meeting, provided that the first insertion of such notice in each of the said newspapers shall be at least seven days prior to the day appointed for the meeting (to be reckoned inclusive of the day of publication and of the day of meeting): Provided always, that if within one hour from the time appointed for the holding of such meeting there shall not be present at one and the same time at the place appointed for such meeting a number of shareholders sufficient and qualified to form a quorum as hereinafter provided, then and in every such case the meeting shall stand adjourned until the then next general meeting, or until such other day as the majority in number of the shareholders then present shall appoint.

The Mining Companies Act.—1881.

27. The board of directors or any or more shareholders possessing collectively shares at the least may at any time, by a requisition in writing require the manager to call a special meeting of the company for any purpose to be specified in such requisition, and within four days of such requisition having been delivered to the manager, or left at the registered office of the company, the manager shall proceed to call such meeting in the same manner as is hereinbefore provided for in case of general meetings, and also by circular to each shareholder to his address as appearing in the register of shareholders: Provided that the first insertion of the notice of such meeting in the newspapers in which it is to be advertised shall be at least days before the day appointed for the meeting (to be reckoned inclusive of the day of publication and of the day of the meeting). If a quorum, as in the preceding article mentioned, shall not be present at the place appointed for the meeting, the same shall, at the option of the majority of the shareholders then present, either be dissolved or adjourned to such other day as such majority shall appoint. The non-receipt by any shareholder of the circular above-mentioned shall not invalidate the proceedings at any special meeting.

28. If the manager shall not within the four days in the next preceding article mentioned proceed to call such meeting, the directors or the shareholders requiring the same, or a majority of such shareholders, may call the same in the manner hereinbefore provided for the calling of the same by the manager.

29. Any or more shareholders possessing collectively shares at the least may at any time, by a requisition in writing, require the manager to call an extraordinary meeting of the company.

30. At every general meeting or at any adjournment thereof the report to be lodged by the directors and the balance-sheet and report to be made out by the manager as hereinbefore directed, and all other accounts and the auditors' reports (if any) of the business, property, and effects of the company, and of the assets, debts, investments, liabilities, and credits thereof, shall be laid before the shareholders by the directors, or the manager by their direction, and such other matters and business shall be transacted as may be necessary or occasion may require.

31. The subjects to be considered at any special meeting, or at any extraordinary meeting, shall be those specified in the notice convening the meeting and none other.

32. Every meeting, whether general, special, or extraordinary, shall have power to adjourn at pleasure before the whole of the business to be transacted thereat shall be completed, but only for the purpose of completing such business; and adjourned meetings may be held at such place, and from time to time, or from day to day, or at such other time or times as the majority of shareholders attending at the meeting or the adjournment thereof shall decide, save as regards the day to which a meeting for the election of directors is to be adjourned, which is hereinbefore provided for.

33. Every shareholder shall be entitled to one vote for each and every share held by him, and every shareholder may vote in person or by proxy.

34. Every shareholder qualified to vote at the meetings of the company shall be entitled to appoint any other shareholder in the company to vote and act for him by proxy at a given meeting or any adjournment thereof. The instrument appointing a proxy shall be in writing under the hand of the appointer, and shall be attested by one witness at the least. Such instrument shall be deposited with the manager or with the chairman of the meeting at which the person named therein as proxy proposes to vote before such person shall be entitled to act or vote; and the shareholder appointing such proxy shall, for all purposes for which the proxy was given, be considered as present by such proxy; and all votes and acts of the proxy to the extent of such purposes shall be as valid and effectual as if given or done by the shareholder in person.

35. Every such proxy shall continue in force until a notice in writing revoking the same shall have been given to the manager or the chairman of any meeting, or left at the office of the company.

36. Every such proxy may be in the following form, that is to say—

The Company (Limited)

I the undersigned of the holder of shares
in the Company (Limited) do hereby appoint
of to be my proxy in my name and on my behalf to vote and act for
me in any business that may be lawfully brought forward at the meeting of share-
holders to be held on the day of 18, or any adjournment
thereof.

As witness my hand this day of 18,
Witness

37. The

The Mining Companies Act.—1881.

37. The votes of any shareholder may, during his absence from South Australia, be given by his attorney constituted under a letter of attorney to vote and act generally at all meetings of the shareholders during such absence, or under a letter of attorney to act generally in all the affairs in this colony of a shareholder during his absence abroad, and such attorney shall be deemed the lawful proxy of such absent shareholder: Provided that such a letter of attorney, or, in case the same shall have been deposited under the provision of any Act of Parliament for the time being in force in that behalf then, an office copy of the same shall be left at the registered office of the company for inspection five clear days before the meeting at which the same is intended to be first acted upon.

38. If any member be a lunatic or idiot he may vote by his committee, and if any member be an infant he may vote by his guardian.

39. If two or more persons are jointly entitled to a share or shares the member whose name stands first in the register of members as the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

40. No member shall be entitled to vote at any meeting unless all calls, interest, and expenses due from him have been paid.

41. Ten shareholders or more who shall amongst them be the holders of not less than one thousand shares, or who, or any of whom, shall as proxies represent shareholders holding as many shares as with the shares held by the said ten will make one thousand shares or more shall be necessary to form a quorum at any meeting of the company.

42. The chairman (if any) of the board of directors shall preside as chairman at every meeting of the company, or if there be no such chairman, or if at any meeting he be not present within fifteen minutes after the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairman.

43. At every meeting, general, special, or extraordinary, all motions, questions, or propositions which shall be submitted for determination shall be primarily decided by the majority in number of the shareholders present on a show of hands, and, unless a poll is demanded by a majority in number and value of the shareholders present either personally or by proxy, a declaration by the chairman that a resolution has been carried and an entry to that effect on the minute-book of the company shall be sufficient evidence of the fact without proof of the number or proportion of votes recorded for or against such resolution.

44. If a poll be demanded as aforesaid, it shall be taken in such manner as the chairman shall direct; and the result of such poll shall be deemed to be the resolution of the company in general, special, or extraordinary meetings, as the case may be. In the case of an equality of votes at any meeting the chairman shall be entitled to a second or casting vote.

45. Every act, deed, matter, or thing made or done by the manager, directors, auditors, or other officers, agents, and servants of the company shall be subject to the review, amendment, alteration, or cancellation of any meeting of the company.

46. Any such meeting may require any explanation from the directors, manager, auditors, officers, agents, and servants of the company which it may deem fit, and any information with respect to the affairs, property, or business of the company or the management thereof, and may call for the production of invoices, vouchers, or other documents, and may examine, allow, or reject the accounts, balance-sheets, and reports of such directors or manager, or of any other person or persons producing any accounts, balance-sheets, or reports relating to the company.

47. No resolution of any meeting of the company shall be rescinded excepting at a special meeting, and a special meeting of the company shall have full power to rescind, cancel, alter, or vary any resolution passed at any meeting of the company or by the board of directors, if the matter or thing required to be done by any such resolution shall not have been executed, or, in case of a contract, the contract shall not have been signed at the time the requisition for calling a special meeting is lodged with the manager, or at the time of calling of the special meeting.

48. At any meeting of the company the chairman shall regulate the mode and manner in which the business thereof shall be conducted.

49. Minutes of the proceedings of every meeting of the company shall be recorded in a book or books to be kept for that purpose by the manager, and such minutes shall be signed either at the meeting to which such minutes refer, or at the meeting next thereafter by the person in the chair at either of such meetings.

50. No such minutes shall be signed until the same shall have been confirmed by the vote of the meeting of which they are, or next following that of which they are, minutes; and the manager shall also keep correct minutes of the proceedings of the directors.

The Mining Companies Act.—1881.

directors, which shall be signed by the chairman of the board of directors, and either or any or the books so signed shall be *prima facie* evidence of such proceedings and of the regularity thereof.

SHARES.

51. The shares of the company shall be numbered progressively and shall thereafter be distinguished by such number.

52. A scrip certificate signed by the manager and two of the directors shall be issued to each shareholder, and shall be in the form following, that is to say:—

No. of Issue	Folio
(The name of the company.)	
(Registered under the "Mining Companies' Act, 1881.")	
Capital £	in shares of £ each.
This is to certify that _____ of _____ is a member of the	
above-named company and the proprietor of _____ shares numbered	
therein, upon which the sum of £ _____ per share has been paid up, subject to the	
rules and regulations of the company.	
Dated this _____	day of _____, 188 .
	} Directors.
	} Manager.

N.B.—This certificate must be given up to the manager on transfer of any of the above shares.

53. If any shareholder shall hold more than one share such certificate may include all the shares held by such shareholder.

54. If any shareholder at any time be desirous of having separate certificates for either or any of the shares held by him, or of having any particular number of shares held by him inserted in one or more than one certificate, he shall be entitled to have such certificate or certificates issued to him on delivering up to the manager any certificate or certificates which may have been issued for, or in respect of, the shares for which he shall desire such new certificate or certificates.

55. If any such certificate be lost or defaced the directors may permit a duplicate thereof to be issued, but in case of its loss upon a statutory declaration being made by its owner as to such loss, who shall give such security as the directors may require before any such duplicate is issued; and any person losing any certificate shall take such steps for the recovery of the same as the directors may direct.

TRANSFER OF SHARES.

56. No entry shall be made on the register of shareholders of the name of any person as transferee of a share upon which any fines under any rule shall be due unless such fines, as well as all calls due on the share, shall be paid to the manager.

57. The provisions in the foregoing Act in regard to scrip certificates shall apply to duplicate certificates, and the transfer to be written on either a certificate or duplicate on the occasion of a transfer of a share must be attested by one witness at the least. Such transfer shall be in the form following, that is to say:—

I, the undersigned _____, do hereby sell and transfer to _____ of _____, of my within-mentioned shares for valuable consideration, and I authorise the manager to transfer the said shares in the books of the company.

Progressive Nos. transferred,

Dated this _____

day of _____

, 18 .

Signature of Transferror.

Witness—

58. As soon as the name of any person, or of the company, or a trustee therefor, is entered on the register of shareholders as a transferee, the certificate or duplicate produced on the occasion of the transfer shall be marked with the word "cancelled," by the manager, and initialled by two directors, and shall be left with, and permanently kept by, the manager.

59. Upon the name of any person being entered on the register of shareholders as the transferee of a share, or upon any person becoming entitled to be deemed the transferee of a share, such person shall become a shareholder in the company in respect of the share so transferred to him, in the same manner as if he had been an original shareholder.

60. If any person, the holder of several shares represented by one certificate or duplicate, desire to transfer one, or some only, of the said shares, the manager shall, after the time when he is bound to enter the name of the transferee, whether the company

The Mining Companies Act.—1881.

company or otherwise, on the register of shareholders for the shares transferred, give to the transferror, on request by him or his agent, authorised in writing, a new certificate for the shares retained by him.

REPRESENTATIVES OF SHAREHOLDERS.

61. The executors or administrators of a deceased member shall be the only persons recognised by the company as having any title to his or her share or shares.

62. Any person becoming entitled to a share or shares in consequence of the death, insolvency, or bankruptcy of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the directors, provided that such persons shall not be entitled to be so registered until after the expiration of fourteen days from the time at which such evidence shall be so produced, and, if so required by the directors, deposited with the manager of the company, to be inspected or retained by the company.

63. Any person becoming entitled to a share or shares in consequence of the death, insolvency, or bankruptcy of any member, or in consequence of the marriage of any female member, may, instead of being himself registered, elect to have some person, to be named by him, registered as a transferee of such share.

CALLS.

64. Any meeting of the directors at which a quorum shall be present shall have power, subject to the provisions of the foregoing Act, to make such call or calls upon the shareholders in respect of all moneys unpaid on their shares as they shall from time to time think proper: Provided always, that no call shall exceed the sum of _____ per share, and there shall be an interval of one month between the making of any calls, or be payable at any time less than seven days from the day on which it was made.

65. Whenever a call shall be made, the manager shall insert in that issue of the _____ newspaper, in Adelaide, in which it can be first published after the making of the call, a notice of the day when it will be payable, and of the place for payment thereof; and a similar notice in each of the two immediately succeeding issues of such newspaper; and shall insert a similar notice in that issue of the [*some newspaper published in the district where the company's operations are being carried on*] in which it can be first published after the making of the call. The manager shall also immediately after the making of the call send a similar notice, by letter, through the general post, to each shareholder. The notice of a call required by the Act to be published in the *Gazette* shall be published in that issue thereof in which it can be first published after the making of the call.

DIVIDENDS.

66. The directors shall declare a dividend on each share out of the clear profits of the company, if any, every _____, but no dividend shall in any case be declared out of the capital of the company; and every dividend shall be payable at the office, or bankers, of the company: Provided that the directors shall not be bound to declare any dividend whenever the amount applicable to the payment of dividends does not amount to _____ pounds.

67. The directors may before declaring any dividend set aside out of the profits of the company such sum as they may think proper as a reserve fund to meet contingencies, or for equalising dividends, or for repairing or maintaining the works and machinery connected with the business of the company or any part thereof.

68. Notice of any dividend that may have been declared shall be published in two consecutive publications of the _____ newspaper in Adelaide, and in a newspaper published at _____

69. No dividend shall be payable to any person in respect of any share whose name is not at the time of payment entered in the register of members as the holder of such share.

70 No dividend shall bear interest as against the company.

AUDITORS.

71. The accounts of the company shall be examined, and the correctness of the balance-sheets of the manager ascertained, by two auditors. A.B. and C.D. shall be the first auditors of the company, and shall hold office until the general meeting to be held in the month of _____ one thousand eight hundred and _____

and

The Mining Companies Act.—1881.

and at that meeting, and at the general meeting to be held in the month of _____ in each subsequent year, two persons, whether members of the company or not, shall be appointed auditors; and any special meeting may remove or dismiss any or either of the auditors so appointed, and upon the removal, dismissal, resignation or death of either or any of the auditors, any special meeting may appoint any other person or persons to act as auditor or auditors until the then next general meeting to be held in the month of _____; and the directors shall allow the auditors so appointed such a remuneration as they may think reasonable.

NOTICES.

72. All notices hereinbefore directed to be given by circular may be served by the company upon any member personally, or by sending it through the post in a prepaid letter addressed to such member at his address as entered in the register of members, or at the address designated by such member as hereinafter mentioned.

73. All notices directed to be given to the members by circular shall, with respect to any share or shares to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members, and notice so given shall be sufficient notice to all the holders of such share or shares.

74. Any notice, if served by post, shall, in the case of any member whose registered address is in Adelaide or at any place within twelve miles of the Adelaide Post Office be deemed to have been served at ten o'clock in the morning of the day after that on which the letter containing the notice was posted, and in the case of any member whose registered address in the said Province of South Australia is beyond twelve miles from the Adelaide Post Office, at ten of the clock in the morning of the second day, and in case of any member whose registered address is in any other of the Australian colonies, at ten of the clock in the morning of the _____ day, after that on which such letter was posted; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office at Adelaide, or, in the event of the service of the said notice being by publication in a daily newspaper as aforesaid, by production of the newspaper containing such notice.

75. Any member may, by a written or printed statement signed by such member and left with the manager at the registered office of the company, require that all notices which the regulations of the company direct to be served upon the members by circular shall, instead of being served upon him, be served upon his attorney appointed as hereinbefore mentioned at some address in South Australia to be set forth in such statement, and until such statement shall be revoked service at such address in the manner hereinbefore provided for service of notice by post shall be deemed good service upon such member notwithstanding the death or absence of such attorney.

MISCELLANEOUS.

76. The board of directors shall have power to make such by-laws, not inconsistent with the provisions of the foregoing Act, or of the rules of the company, as shall be found necessary for the efficient working of the company, or carrying on of its operations, and to amend such by-laws from time to time as they shall deem desirable, subject always to any alterations which any meeting of the company shall think proper to make.

77. The manager shall within eight days from the passing of any new rule or rules, or any alteration or alterations in the rules of the company, annex to these present rules a copy of such new rule or rules, or alteration or alterations, signed by the chairman of the meeting at which the same was or were made, and by the manager, and the new rule or rules and alteration or alterations so annexed shall from thenceforth form a portion of the rules of the company.

78. All sums of One Pound and upwards payable by the company shall be paid by cheques, and all cheques shall be drawn by the manager, and countersigned by two of the directors.

79. The receipt in writing of the manager for the time being shall be a good and sufficient discharge for all calls or fines due to the company, and for all sums under _____ Pounds, and the receipt in writing of a majority of the directors and of the manager for any sums of money amounting to, or over, _____ Pounds, and for any property or effects belonging, or payable, to the company shall effectually discharge therefrom the purchaser or other person paying or delivering the same, and from all liability in respect of the application thereof; and all moneys received by the manager shall be paid by him to the credit of the company into such bank as the directors may appoint.

80. In

The Mining Companies Act.—1881.

80. In the interpretation of all rules and regulations of the company, unless there be anything in the context repugnant thereto, words importing the singular number only shall extend to and include the plural, and words implying the plural number only shall extend to and include the singular, and all words implying the masculine gender only shall be read as including females, and the words "directors" and "manager" shall respectively signify the board of directors of the company or a majority thereof, or the quorum, or a majority of the quorum of such directors, and the manager for the time being of the company.

81. The company shall continue and be in existence for the term of years from the day of one thousand eight hundred and , unless the same shall in the meantime be wound up either by the Court or voluntarily under the provisions of the "Mining Companies Act, 1881," or under any other Act for the time being in force for the winding up of such companies; but in case the operations shall continue productive or promising it shall be lawful for the shareholders at any time before the expiration of the said term, at an extraordinary meeting to be convened for the purpose, and by a resolution carried by the holders of a majority of the shares in the company voting as aforesaid, to prolong the said duration of the said company for any further period, to be conducted upon the terms, conditions, and agreement upon which the said company shall then have been conducted, and to procure a renewal of any lease which the company may hold for any further period whatsoever.

82. At the determination or dissolution of the said company, the directors, manager, and other officers of the company for the time being shall forthwith wind up and settle the affairs of the company in manner following (that is to say):—All and singular the property and effects of the company, or such parts thereof as shall be saleable, shall be sold by public auction or private contract, and, out of the moneys arising therefrom, all the debts, engagements, and liabilities of the company shall be paid and discharged, or provision shall be made for the satisfaction or compromise thereof, and the clear surplus (if any) then belonging to the said company shall be divided between the shareholders in proportion to the number of shares held by them respectively: Provided, however, that no sale by private contract shall be completed without the sanction of an extraordinary meeting of shareholders convened for that purpose.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 205.

An Act to apply, out of the General Revenue, the sum of Four Hundred Thousand Pounds to the Service of the year ending the Thirtieth day of June, one thousand eight hundred and eighty-two.

[Assented to, September 28th, 1881.]

BE it Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. Out of the General Revenue of the said province there shall be issued and applied, from time to time, for the service of the year ending the thirtieth day of June, one thousand eight hundred and eighty-two, any sums of money not exceeding in the whole the sum of Four Hundred Thousand Pounds: Provided that no payments for any establishment or service be made in excess of the rates voted for similar establishments or services on the Estimates for the year ended the thirtieth day of June, one thousand eight hundred and eighty-one, except so far as such rates are modified by the "Civil Service Act, 1874."

Issue and application of £400,000.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 206.

An Act to repeal Act No. 14 of 1865-6, intituled "An
Act to amend the Convicts Prevention Act,
1865."

[Assented to, September 28th, 1881.]

WHEREAS it is expedient to repeal Act No. 14 of 1865-6— Preamble.
Be it therefore Enacted by the Governor of the Province of
South Australia, with the advice and consent of the Legislative
Council and House of Assembly of the said province, in this present
Parliament assembled, as follows :

The said Act, No. 14 of 1865-6, intituled "An Act to amend
the Convicts Prevention Act, 1865," is hereby repealed. Repeal of Act No. 14
of 1865-6.

In the name and on behalf of Her Majesty, I hereby assent to
this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 207.

An Act to provide for the establishment of Lines of
Telephonic and Telegraphic Communication, and
for other purposes.

[Assented to, November 18th, 1881.]

WHEREAS it is desirable to provide for the construction, main-
tenance, and regulation of lines of telephonic and telegraphic
communication—Be it therefore Enacted by the Governor of the
Province of South Australia, with the advice and consent of the
Legislative Council and House of Assembly of the said province, in
this present Parliament assembled, as follows :

Preamble.

1. This Act shall be called and may be cited as “The Telephone
Act, 1881,” and shall be read with and construed as part of
“Act No. 6 of 1857.”

Short title and
construction.

2. The Superintendent of Telegraphs, or any person from time to
time authorised in that behalf by the Governor, may construct,
maintain, or enter into any contract for the construction and main-
tenance of lines of telephonic or telegraphic communication, and
the Governor or the Superintendent of Telegraphs, and his officers,
clerks, and servants shall, so far as is consistent with this Act,
have the like powers respectively so far as relates to the superin-
tendence, construction, establishment, maintenance, and protection of
such lines of telephonic communication as they may have under any
laws for the time being in force in reference to lines of communica-
tion by electric telegraph.

Construction of lines
of telephonic or tele-
graphic communica-
tion by the Govern-
ment.

3. The Superintendent of Telegraphs may from time to time enter
into an agreement with any person, upon such terms and conditions

Agreement may be
made for construction
or maintenance and

as

The Telephone Act.—1881.

use of telephonic or telegraphic lines.

as he may think fit, to construct or maintain lines of telephonic or telegraphic communication for such person in any district or places named in such agreement. Every line of telephonic or telegraphic communication shall be used exclusively for the business or private affairs of such person or of any other person approved by the Superintendent of Telegraphs.

Rents and charges to be set out in agreement.

4. Every person entering into such agreement shall pay to the Superintendent of Telegraphs, in advance, such periodical rents or charges as shall be named in such agreement: Provided, however, that such rents and charges shall be in accordance with a scale to be fixed from time to time by the Governor.

Power to prohibit and prevent use of telephonic or telegraphic lines.

5. The Superintendent of Telegraphs may, in such manner as may be convenient, and without being subject to pay compensation to any person, prohibit and prevent the use of any line of telephonic or telegraphic communication by any person who makes use or permits the use of such line for other purposes than his own business or private affairs, or the rents or charges in respect of which line have not been paid to the Superintendent of Telegraphs.

Application of provisions of Act No. 6 of 1857 to telephonic lines.

6. The provisions of Act No. 6 of 1857, to regulate the construction and management of electric telegraph, shall apply to all lines of telephonic communication to be constructed under the provisions of this Act as fully and effectually for all purposes whatsoever (including the dealing with and punishment of offenders) as if such lines were lines of communication by electric telegraph within the meaning of the said Act, either by express reference therein or by implication.

Penalty for erection and maintenance of lines of telegraphic or telephonic communication by private persons.

7. Any person who shall set up, maintain, or use in or on any lands of the Crown, except on lands leased by the person desiring to set up, maintain, or use the same, or in or on any public road, street, or highway any line of private telegraphic or telephonic communication, or who shall wilfully use any such line heretofore set up and neglect to comply with any notice from the Superintendent of Telegraphs to pay such charges in respect of any such line heretofore set up as may from time to time be fixed by the Governor, shall on conviction of any such offence forfeit and pay a sum not exceeding Five Pounds for every day during which any such line shall be or continue to be so set up, maintained, or used contrary to the provisions of this Act; and the Superintendent of Telegraphs may at any time authorise any person to take absolute possession of, cut down, or destroy the whole or any part of any such line.

Power to remove private lines.

Regulations.

8. The Governor may from time to time make regulations prescribing the terms and conditions on which lines of telephonic or telegraphic communication will be constructed and maintained, or on which the exclusive use of any line of telegraphic or telephonic communication may be granted or let to any person for his own business or private affairs only, and generally for the purpose of carrying

The Telephone Act.—1881.

carrying out the objects of this Act. Copies of all such regulations shall be published in the *Government Gazette*, and laid before both Houses of Parliament within fourteen days from the date thereof, if Parliament shall be then sitting, and if not sitting, then within fourteen days after the next meeting of Parliament.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 208.

An Act for regulating Buildings and Party Walls in the
City of Adelaide and other Municipalities.

[*Assented to, November 18th, 1881.*]

WHEREAS it is expedient for the safety, health, and comfort of
the inhabitants of the City of Adelaide and other municipi-
palities, and the security of property therein, that provision should
be made for the better regulation of buildings and party walls, and
for the prevention of mischiefs by fire in the said city and other
municipalities—Be it therefore Enacted by the Governor of the
Province of South Australia, with the advice and consent of the
Legislative Council and House of Assembly of the said province, in
this present Parliament assembled, as follows :

Preamble.

PRELIMINARY.

PRELIMINARY.

1. This Act may be cited for all purposes as “The Building Act, 1881.”

Short title.

2. Section 173 of “The Municipal Corporations Act, 1880,” is
hereby repealed.

Repeal.

3. This Act shall, except in cases where it is otherwise expressly
provided, come into operation on the first day of January, one
thousand eight hundred and eighty-two.

Commencement of
Act.

4. In the construction of this Act (if not inconsistent with the
context) the following terms shall have the respective meanings
hereinafter assigned to them, that is to say—

Definitions.

“Public buildings” shall mean every building used as a church,
chapel, or place of public worship; also, every building used
for

*The Building Act.—1881.*PRELIMINARY.

for purposes of public instruction ; also, every building used as a college, public hall, hospital, theatre, public concert-room, public ballroom, public lecture-room, public exhibition-room, or for any other public purpose :

“ External wall ” shall apply to every outer wall or vertical enclosure of any building not being a party wall :

“ Party wall ” shall apply to every wall separating any building from any other building with a view to the same being separately occupied ; but if from any cause whatever the said wall should cease to separate such buildings, such wall shall thereupon become an external wall or a partition, as the case may be :

“ Cross wall ” shall apply to every wall used or built in order to be used as a separation of one part of any building from another part of the same building, such building being wholly in one occupation :

“ Party structure ” shall include party walls, and also partitions, arches, floors, and other structures separating buildings, storeys, or rooms, which belong to different owners, or which are approached by distinct staircases or separate entrances from without :

The “ area ” of every building shall be deemed to be the superficies of a horizontal section of such building made at the point of its greatest surface, including the external walls and such portion of the party walls as belong to the building, but excluding an attached building, the height of which does not exceed the height of the ground story :

“ The base of the wall ” shall mean the course immediately above the footings :

“ Owner ” shall apply to every person in possession or receipt either of the whole or any part of the rents or profits of any land or messuage, or in the occupation of such land or messuage other than as a tenant from year to year, or for any less term, or as a tenant at will :

“ Builder ” shall apply to and include the master-builder or other person employed to execute or who actually executes any work upon any building :

“ Surveyor ” shall mean every such surveyor or inspecting officer as is appointed in pursuance of this Act, and shall include any deputy or assistant surveyor or inspecting officer appointed under this Act :

“ City of Adelaide ” or “ city ” shall mean and include any city or town incorporated under the Municipal Corporations Act, 1861, “ The Municipal Corporations Act, 1880,” or any amendment thereof :

“ Council ” shall mean and include the Council of any municipality incorporated

The Building Act.—1881.

incorporated under the Municipal Corporations Act, 1861, "The Municipal Corporations Act, 1880," or any amendment thereof: PRELIMINARY.

"A building" shall be deemed to be "new" whenever the enclosing walls thereof have not been carried higher than the footings, previously to the said first day of January, one thousand eight hundred and eighty-two; any other building shall be deemed to be an old building.

Limits of Act.

5. This Act shall extend to all places within the limits of any city or town incorporated under the Municipal Corporations Act, 1861, "The Municipal Corporations Act, 1880," or any amendment thereof, according as such limits are delineated in the maps and plans of such city or town in the office of the Surveyor-General of South Australia, to which city or town the Governor, by Proclamation in the *Government Gazette*, may, after receipt of a petition from the Council of any such city or town, direct this Act to apply. *Extent of Act.*

6. This Act shall be divided into Four Parts—

Division of Act into parts.

- I. The First Part relating to the Regulation and Supervision of Buildings:
- II. The Second Part relating to Dangerous Structures:
- III. The Third Part relating to Party Structures:
- IV. The Fourth Part relating to Miscellaneous Provisions.

PART I.PART I.**REGULATION AND SUPERVISION OF BUILDINGS.**

7. The following buildings and works shall be exempt from the operation of the first part of this Act— *Exemptions.*

Bridges, piers, jetties, embankments, fence walls, retaining walls:

All party fence walls and greenhouses, so far as regards the necessary woodwork of the sashes, doors, and frames:

All buildings the property of Her Majesty within the limits of this Act:

Openings made into walls or flues, for the purpose of inserting therein ventilating valves of a superficial extent not greater than forty square inches, if such valves are not nearer than nine inches to any timber or other combustible material.

8. With the exemptions hereinbefore mentioned, this Act shall apply to all new buildings, and whenever mention is herein made of any building, it shall, unless the contrary appears from the context, be deemed to imply a new building. *Application of Act.*

9. Any

*The Building Act.—1881.***PART I.**

Alterations to old buildings.

9. Any alteration, addition, or other work made or done for any purpose, except that of necessary repair not affecting the construction of any external or party wall, in, to, or upon any old building, or in, to, or upon any new building, after the roof has been covered in, shall, to the extent of such alteration, addition, or work, be subject to the regulations of this Act; and whenever mention is hereinafter made of any alteration, addition, or work, in, to, or upon any building, it shall, unless the contrary appears from the context, be deemed to imply an alteration, addition, or work to which this Act applies.

Taking down portion of old building.

10. Whenever any old building has been taken down to an extent exceeding one-half of such building, such half to be measured in cubic feet, the rebuilding thereof shall be deemed to be the erection of a new building; and every portion of such old building that is not in conformity with the regulations of this Act shall be forthwith taken down, if the Council so direct.

Partitions of timber when removed.

11. Whenever any old buildings are separated by timber or other partitions not in conformity with this Act, then, if such partitions are removed to the extent of one-half thereof, such buildings shall, as respects the separation thereof, be deemed to be new buildings, and be forthwith divided from each other in the manner directed by this Act.

Construction of walls.

12. Walls shall be constructed of such substances and of such thickness, and in such manner as are mentioned in the First Schedule hereto.

Recesses and Openings.

Rules as to recesses and openings in walls.

13. The following rules shall be observed with respect to recesses and openings in walls—

Recesses and openings may be made in external walls, provided—

- I. That the backs of such recesses are not of less thickness than eight and a half inches, built as one wall:
- II. That every recess so formed is arched over at each floor or ceiling with an arch having a rise equal to at least one-eighth of the span; and,
- III. That the area of such recesses and openings do not, taken together, exceed two-thirds of the whole area of the wall in which they are made:
- IV. That the consent and authority of the surveyor be first had and obtained.

Recesses may be made in party walls, provided that—

- I. The backs of such recesses be not less in thickness than eight inches and one-half:

II. That

*The Building Act.—1881.***PART I.**

- II. That every recess so formed is arched over at each floor or ceiling with an arch having a rise equal to at least one-eighth of the span:
- III. That the area of such recesses do not, taken altogether, exceed two-thirds of the whole area of the wall of the story in which they are made:
- IV. That the consent and authority of the surveyor be first had and obtained:

No opening shall be made in any party wall except in accordance with the rules of this Act:

The word "area," as used in this section, shall mean the area of the vertical face or elevation of the wall, pier, or recess to which it refers.

Miscellaneous.

14. Loophole frames may be fixed within one inch and a half of the face of any external wall, but all other woodwork fixed in any external walls, except brestsummers and story-posts under the same, and frames of doors and windows of shops on the ground story of any building, shall be set back four inches at the least from the external face of such wall.

Loophole frames
and woodwork fixed
in external walls.

15. The following rules shall be observed with respect to brestsummers and timbers—

Rules as to brestsummers and timbers.

- I. Every brestsummer must have a bearing in the direction of its length of four inches at the least at each end, upon a sufficient pier of brick or stone, or upon an iron story-post fixed on a solid foundation, in addition to its bearing upon any party wall:
- II. Every brestsummer bearing upon any party wall must be borne by a templet or corbel of stone or iron, tailed through at least half the thickness of such wall, and of the full breadth of the brestsummer:
- III. Every opening, unless spanned by a brestsummer made of wrought iron strong enough, in the opinion of the surveyor, to carry the building above it, shall have a relieving arch over it, and the thrust of the arch shall be borne by wrought-iron span-bars and cast-iron or freestone skewbacks to receive the whole of the ends of such arch, which, together with the span-bars, shall be, in the opinion of the surveyor, strong enough to carry the weight over it:
- IV. Hardwood, either jarrah or redgum, may be used in foundations, but no timber or wood plate shall be built longitudinally into any wall above the ground line; and the ends of beams or joists bearing on party walls shall be at least two and a half inches distant from the centre line of such party walls.

16. If

*The Building Act.—1881.***PART I.**

Parapet walls to be carried up if gutter of combustible material.

16. If any gutter, any part of which is formed of combustible materials, adjoins an external wall, then such wall must be carried up so as to form a parapet eighteen inches at least above the highest part of such gutter, and the thickness of the parapet so carried up must be at the least eight and a half inches reckoned from the level of the under side of the gutter-plate.

Party walls to be carried up above roof.

17. Every party wall shall be carried up above the roof, flat, or gutter, of the highest building adjoining thereto, to such height as will give a distance of fifteen inches, measured at right angles to the slope of the roof, or above the narrow part of any flat or gutter, as the case may be; and every party wall shall be carried up above any turret, dormer, lantern-light, or other erection of combustible materials fixed upon the roof or flat of any building within four feet from such party wall, and shall extend at least twelve inches higher and wider on each side than such erection; and every party wall shall be carried up above any part of any roof opposite thereto, and within four feet from such party wall.

Chases in party walls not to be wider than fourteen inches.

18. In a party wall no chase shall be made wider than fourteen inches, nor more than four and a half inches deep from the face of the wall, nor so as to leave less than eight and a half inches in thickness at the back or opposite side thereof, and no chase may be made within a distance of seven feet from any other chase on the same side of the wall.

Hollow walls allowable

19. It shall be allowable to use hollow walls, formed of two brick walls, not less than four inches and a half thick. The two walls to be bonded together to the satisfaction of the surveyor.

Rules concerning roof coverings.

20. With regard to roof coverings in reference to the materials thereof—

If the external parts of any roof, gutter, or flat of any building, or of any projection therefrom, and of any turret, dormer, lantern-light, or other erection on the roof or flat of any building, be hereafter built or rebuilt, stripped, ripped, or uncovered, then every such part (except the door frames and doors, window-frames and sashes of such turrets, dormers, lantern-lights, or other erections) must be covered with slates, tiles, lead, galvanized corrugated iron, glass, artificial stone, or cement, and such excepted parts may be made of such wood as shall be necessary:

Rainwater pipes and eaves gutters.

And with regard to the roof, flat, and gutter of any building, and of any projection therefrom, and also balconies, verandahs, and shop-fronts, they must be so arranged and constructed, and so supplied with gutters and pipes as to prevent the water therefrom dripping on to or running over the public way, and all such rainwater pipes and eaves gutters are to be made of metal.

21. The

The Building Act.—1881.

21. The following rules shall be observed as to chimneys and flues—

PART I.

Rules to be observed
as to chimneys.

- I. Chimneys built on corbels of brick, stone, or other combustible materials, may be introduced above the level of the ceiling of the ground story, on walls of not less than thirteen and a half inches, and if the work so corbelled out does not project from the wall more than the thickness of the wall, the corbels must be of a vertical depth equal to the projection from the wall, but all other chimneys shall be built on solid foundations, and with footings similar to the footings of the wall against which they are built :
- II. Chimneys and flues having proper doors of not less than nine inches square may be constructed at any angle ; but in every other chimney or flue the angles shall be constructed of an obtuseness of not less than one hundred and thirty degrees :
- III. An arch of brick or stone, or a bar of wrought iron, must be built over the opening of every chimney, to support the breast thereof ; and if the breast projects more than four and a half inches from the face of the wall, and the jamb on either side is of less width than seventeen and a half inches, the abutments must be tied in by an iron bar or bars, turned up and down at the ends and built into the jambs for at least eight and a half inches on each side :
- IV. The inside of every flue must be rendered, pargeted, or lined with fire-proof piping :
- V. The jambs of every chimney must at least be eight and a half inches wide on each side of the opening thereof :
- VI. The breast of every chimney, and the front, withe, partition, and back of every flue must at the least be four inches in thickness :
- VII. The back of every chimney opening from the hearth up to the height of twelve inches above the mantel, must at the least be eight and a half inches thick. The divisions of back-to-back fireplaces in cross walls may be four and a half inches thick :
- VIII. The thickness of the upper side of every flue, when its course makes with the horizon an angle of less than forty-five degrees, must be at the least eight and a half inches :
- IX. Every chimney-shaft shall be carried up in brick or stone work all round at the least four inches thick, to a height of not less than three feet above the roof, flat, or gutter adjoining thereto, measured at highest points of the line of junction with such roof, flat, or gutter :
- X. The brickwork or stonework of any chimney-shaft, except that for the furnace of any steam-engine, brewery, distillery,

*The Building Act.—1881.***PART I.**

tillery, or manufactory, shall not be built higher above the roof, flat, or gutter adjoining thereto, measured from the highest point in the line of junction with such roof, flat, or gutter, than a height equal to six times the least width of such chimney-shaft at the level of such highest point in the line of junction, unless such chimney-shaft is built with and bonded to another chimney-shaft not in the same line with the first, or otherwise made secure to the satisfaction of the surveyor :

- xI. There shall be laid level with the floor of every story, before the opening of every chimney a slab of stone, or other incombustible material, at the least twelve inches longer than the width of such opening, and at the least sixteen inches wide in front of the breast thereof :
- xII. On every floor, above the ground floor, such slab shall be laid wholly upon stone or iron bearers, or upon brick trimmers :
- xIII. The hearth or slab of every chimney shall be bedded only on brick, stone, or other incombustible substance, and shall be solid for a thickness of six inches at least beneath the upper surface of such hearth or slab :
- xIV. No flue shall be built against any party structure unless a withe is properly secured thereto, at the least four inches in thickness :
- xV. No chimney breast or shaft, built with, or in, any party wall shall be cut away unless the surveyor certifies that it can be done without injuriously affecting the stability of any building :
- xVI. No chimney shaft, jamb, breast, or flue shall be cut into except for the purpose of repair, or doing some one or more of the following things—
 - Of letting in, or removing, or altering flues, pipes, or funnels for the conveyance of smoke, hot air, or steam, or of letting in, removing, or altering smoke-jacks :
 - Of forming openings for soot door, such openings to be fitted with a close iron door and frame :
 - Of making openings for the insertion of ventilating valves subject to the following restrictions, that no opening shall be made nearer than six inches to any timber or combustible substance :
- xVII. No timber or woodwork shall be placed—
 - In any wall or chimney-breast nearer than six inches to the inside of any flue or chimney opening :
 - Under any chimney opening within eight inches from the upper surface of the hearth of such chimney opening : Within

The Building Act.—1881.**PART I.**

Within four and a half inches from the face of the brickwork or stonework about any chimney or flue, where the substance of such brickwork or stonework is less than eight and a half inches thick:

And no wooden plugs shall be driven nearer than four and a half inches to the inside of any flue or chimney opening, nor any iron holdfast or other iron fastening nearer than two inches thereto.

22. The following rules shall be observed with respect to close fires and pipes for conveying heated vapor or water, that is to say— Rules to be observed as to close fires.

- i. The floor under every oven or stove used for the purpose of trade or manufacture, and the floor around the same for a space of eighteen inches, shall be formed of materials of an incombustible and non-conducting nature :
- ii. No pipe for conveying smoke, heated air, steam, or hot water shall be fixed against any building on the face next any street, or public way :
- iii. No pipe for conveying heated air or steam shall be fixed nearer than two and a half inches to any combustible materials :
- iv. No pipe for conveying smoke or other products of combustion shall be fixed nearer than six inches to any combustible materials :

And if any person fails in complying with the rules of this section he shall for each offence incur a penalty not exceeding Five Pounds, to be recovered before two Justices of the Peace; and shall make the alterations necessary to comply with this Act.

23. The following rules shall be observed with respect to accesses and stairs— Rules as to accesses and stairs.

In every public building the floors of the lobbies, corridors, passages, and landings, and also the flights of stairs shall be of stone or other fire-proof material, and carried by supports of a fire-proof material.

24. The following rules shall be observed with respect to habitable rooms in any building, that is to say— Habitable rooms.

- i. Every habitable room hereafter constructed in any building, except rooms in the roof thereof, shall be in every part at the least ten feet in height from the floor to the ceiling :
- ii. Every habitable room hereafter constructed in the roof of any building, shall be at least ten feet in height from the floor to

*The Building Act.—1881.*PART I.

to the ceiling throughout not less than one half the area of such room :

- III. Cellars and underground rooms intended for habitation shall be constructed in manner directed by this Act :

They shall be at least ten feet in height in every part thereof, measured from the floor to the ceiling ; and

They shall be at least one foot of their height above the surface of the footway or land adjoining or nearest to the same ; and,

Where practicable, every cellar or underground room shall have, immediately outside the walls thereof, a dry rubble wall from the bottom of the footings to the surface of the ground, and the base of the wall shall have sloped drains leading to a drainage-well or sewer, as the case may be :

They shall be effectually drained and secured against the rise of effluvia from any sewer or drain ; and

They shall each have a fireplace with a proper chimney or flue ; and

They shall each have an external glazed window of at least nine superficial feet in area clear of the frame, and made to open in such a manner as is approved by the surveyor :

There shall appertain to each such cellar or underground room the use of a closet or privy, kept and provided in accordance with the provisions of The Public Health Act, or any amendment thereof :

Every cellar or underground room shall have on one side thereof, an open area of at least two feet six inches wide from six inches below the floor thereof, up to the surface of the ground level :

Provided always that in any area adjoining a room or cellar there may be placed steps necessary for access to such room or cellar ; and over or across any such area there may be steps or arch necessary for access to any building above the room or cellar to which such area adjoins, if the steps or arch in such respective cases be so placed as not to be over or across any such external window :

And whosoever knowingly suffers any cellar or room that is not constructed in conformity with this section to be inhabited shall, in addition to any other liabilities he may be subject to under this Act, incur a penalty not exceeding Twenty Shillings for every day during which such cellar or room is inhabited, and any cellar or room in which any person passes the night shall be deemed to be inhabited within the meaning of this Act.

25. Every

*The Building Act.—1881.***PART I.**

25. Every dwelling-house, office, factory, shop, school, place of worship, or place of amusement, shall have sufficient means of ventilation provided in terms of sections 44 and 55 of The Public Health Act.

Ventilation to be provided.

26. Every building, now or hereafter occupied as a place of amusement, shall have such additional means of escape provided as, in the opinion of the surveyor, shall be sufficient to afford, in the event of any alarm, speedy egress for the greatest number of persons that the building will accommodate. All doors to open outwards where practicable.

Means of escape to be provided for places of amusement.

27. In order to ensure proper drainage, ventilation of soil pipes, and other matters of a like nature, every builder shall, previous to commencing the erection of any building, submit the plans and specifications of the same, together with a tracing copy of such plans, to the nearest Board of Health, and shall obtain the approval of the said Board, under the hand of its secretary, of such plans and specifications in respect of drainage, ventilation of soil pipes, and other matters.

Plans, &c., to be submitted to nearest Board of Health.

28. In the event of the plans and specifications of any building being approved by the Board of Health as in the preceding section described, the original plans and specifications shall be returned to the builder; but the copy of the plans which shall be drawn on tracing cloth so submitted to the said Board of Health, shall be retained by them and carefully preserved.

Copy of plans and specifications to be retained by Board of Health.

29. Every party arch and every arch or floor over any public way, or any passage leading to premises in other occupation, shall be formed of brick, stone, or other incombustible materials; if an arch of brick or stone is used, it shall, in cases where its span does not exceed nine feet, be of the thickness of four and a half inches at the least, but where its span exceeds nine feet, be of the thickness of eight and a half inches at the least; if an arch or floor of iron or other incombustible material be used it shall be constructed in such manner as may be approved by the surveyor.

Party arches and other arches to be of brick, &c.

30. Every arch under any public way shall be formed of brick, stone, or other incombustible materials; if an arch of brick or stone is used, it shall be, in cases where its span does not exceed ten feet, of the thickness of eight and a half inches at the least; where its span does not exceed fifteen feet, it shall be of the thickness of thirteen inches at least; and where its span exceeds fifteen feet, it shall be of such thickness as may be approved by the surveyor; if an arch or other construction of iron or other incombustible material is used, it shall be constructed in such manner as may be approved by the surveyor.

Arches under public way to be of brick, &c.

31. The following rules shall be observed as to projections of public buildings—

Rules to be observed as to projections.

1. Every coping, cornice, fascia, window-dressing, portico, balcony, verandah,

*The Building Act.—1881.***PART I.**

verandah, oriel, balustrade, and architectural projection or decoration whatsoever, and also the eaves or cornices to any overhanging roof, except the cornices and dressings to the window fronts of shops, and except the eaves and cornices to detached and semi-detached dwelling-houses distant at least fifteen feet from any other building and from the ground of any adjoining owner, shall, unless the Council permit otherwise, be of brick, tile, stone, artificial stone, slate, cement, iron, or other fire-resisting material :

- II. In streets or alleys of a less width than thirty feet, any cornice may project thirteen inches beyond the external wall of the building to which it belongs, and no more :
- III. No part of the woodwork of any shop front shall be fixed nearer than four and a half inches from the line of junction of any adjoining premises :
- IV. The roof, flat, or gutter of every building, and every balcony, verandah, oriel window, shop front, and other projection must be so arranged and constructed, and so supplied with gutters and pipes, as to prevent the water therefrom from dropping upon or running over the public way :
- V. Except in so far as is permitted by this section, with the exception of copings, cornices, facias, window-dressings, or other like architectural decorations, no projection from any building shall extend beyond the general line of fronts in any street, except with the permission of the Council :
- VI. Notwithstanding anything contained in "The Municipal Corporations Act, 1880," to the contrary, it shall be within the power of the Council to regulate the erection of verandahs and other similar structures over the public streets and footpaths, and the materials, height, and construction of the same, provided that all such erections shall be entirely in accordance with this Act ; and no verandah or other similar structure shall be erected or rebuilt except the plans of the same shall first have been submitted to the Council, and have been approved by them.

Rules to be observed
as to separation of
buildings.

32. The following rules shall be observed as to the separation of buildings and limitation of their areas—

- I. Every building shall be separated by external or party walls from any adjoining building :
- II. If any building in one occupation is divided into two or more tenements, each having a separate entrance and staircase, or a separate entrance from without, every such tenement shall be deemed to be a separate building for the purposes of this Act :
- III. Every warehouse or other building used wholly or in part for

Ib. sec. 27.

the

*The Building Act.—1881.***PART I.**

the purposes of trade or manufacture, containing more than two hundred and sixteen thousand cubic feet, shall be divided by party walls in such manner that the contents of each division thereof shall not exceed the above-mentioned number of cubic feet.

33. The following rules shall be observed as to uniting buildings—

Rules to be observed as to uniting building.

- i. No opening shall be made in any party wall dividing buildings which, if taken together, would contain more than two hundred and sixteen thousand cubic feet, except under the following conditions—

Such opening shall not exceed in width seven feet, or in height eight feet:

Such opening shall have the floor-jambs and head formed of brick, stone, or iron, and be closed by two wrought-iron doors, each one half of an inch thick in the panel, at a distance from each other of the full thickness of the wall, fitted to rebated frames without woodwork of any kind:

- ii. Whenever it shall be deemed desirable in the case of any buildings which have been united, openings in the party walls dividing the same shall be stopped up with brick or stone work of the full thickness of the wall itself, and properly bonded therewith.

34. Every building used or intended to be used as a dwelling-house, unless all the rooms can be lighted and ventilated from a street or alley adjoining, shall have in the rear or on the side thereof an open space exclusively belonging thereto of the extent at least of four hundred and fifty square feet.

Dwelling-house to have open space of four hundred and fifty square feet.

Surveyor.

35. With the exceptions hereinbefore mentioned every building and every work done to, in, or upon any building shall be subject to the supervision of a surveyor.

All buildings to be subject to supervision of surveyor.

36. The Council may from time to time, for the purposes of this Act, appoint a surveyor or surveyors, and may from time to time suspend or remove such surveyor or surveyors, or appoint a temporary substitute for any such surveyor, and such temporary substitute shall be a surveyor within the meaning of this Act.

Council may appoint surveyor.

37. If any surveyor is prevented by illness, infirmity, or any other unavoidable cause from attending to the duties of his office, the Council may appoint some other person as his deputy to perform all his duties for such time as he may be prevented from executing them, and such deputy shall be a surveyor within the meaning of this Act.

Council may appoint deputy surveyor, in case of illness of surveyor.

Notices

*The Building Act.—1881.***PART I.***Notices to Surveyor.*

Notices to surveyor
before commencing
any work.

38. Two days before the following acts or events, that is to say—

Two days before any building, or any work to or upon any building, is commenced, and also, if the progress of any building or work is suspended after the commencement thereof for any period exceeding three months, two days before such building or work is resumed, and also, if during the progress of any such building or work the builder employed thereon is changed, then two days before any new builder enters upon the continuance of any such building or work, it shall be the duty of the builder engaged in building or re-building such building, or in executing such work, or in continuing such building or work, to give to the surveyor notice, in writing, stating the situation, area, and height, and intended use of the building or buildings about to be commenced, or to, or upon which any work is to be done, and the number of such buildings, if more than one, and also the particulars of any such proposed work, and stating also his own name and address; but any works to, in, or upon the same building that are in progress at the same time may be included in one notice; and such notice in writing shall be made in such form as the Council may direct.

Surveyor may survey
any building during
progress of work.

39. The surveyor shall, upon the receipt of any such notice as aforesaid, and also upon any work affected by the rules of this Act, but in respect of which no notice has been given, being discovered by or made known to him, and also from time to time during the progress of any works affected by the rules and directions of this Act, as often as may be necessary for securing the due observance of such rules, survey any building or work hereby placed under his supervision, and cause all the rules of this Act to be duly observed.

Notice to be *prima*
facie evidence
against builder.

40. Every notice given in pursuance of this Act shall be deemed, in any question relative to any building or work, to be *prima facie* evidence as against such builder of the nature of the building or work proposed to be built or done.

Penalty on builder
neglecting to give
notice.

41. If any builder neglects to give notice in any of the cases aforesaid, or executes any works of which he is hereby required to give notice, before giving the same, or, having given due notice of any works, executes the same before the expiration of two days from the time of giving such notice, such builder shall for every such offence incur a penalty not exceeding Five Pounds, to be recovered before two Justices of the Peace.

Surveyor may inspect
building at all reason-
able times during
progress.

42. At all reasonable times during the progress of any building or work affected by this Act, it shall be lawful for the surveyor to enter and inspect such building or work; and if any person refuses to admit

*The Building Act.—1881.***PART I**

admit such surveyor to inspect such building or work, or refuses or neglects to afford such surveyor all reasonable assistance in such inspection, in every such case the offender shall incur for such offence a penalty not exceeding Twenty Pounds, to be recovered before two Justices of the Peace.

43. If by reason of any emergency any act or work is required to be done immediately, or before notice can be given as aforesaid, then it shall be lawful to do the act or work required to be done upon condition that before the expiration of twenty-four hours after such act or work has been begun notice thereof is to be given to the surveyor.

In case of emergency work may be done and notice given to surveyor within twenty-four hours.

Proceedings by Surveyor in case of irregularity.

44. In the following cases, that is to say—

If in erecting any building, or in doing any work to, in, or upon any building, anything is done contrary to any of the rules of this Act, or anything required by this Act is omitted to be done; or in cases where due notice has not been given:

Anything done contrary to this Act, surveyor to give notice to builder.

If the surveyor, on surveying or inspecting any building or work, finds that anything has been done contrary to the rules of this Act, or that anything required by the rules of this Act has been omitted to be done:

In every such case the surveyor shall give the builder engaged in erecting such building, or in doing such work, notice, in writing, requiring such builder to commence to amend, within forty-eight hours from the date of such notice, everything done contrary to the rules of this Act, or to do anything required to be done by this Act, but which has been omitted to be done.

45. In cases where any building has been erected, or work done, without due notice being given to the surveyor, the surveyor may at any time within one month after he has discovered that such building has been erected, or work done, enter the premises for the purpose of seeing that the regulations under this Act have been complied with; and the time during which the surveyor may take any proceedings, or do anything authorised or required by this Act to be done by him in respect of such building or work, shall begin to run from the date of his discovering that such building has been erected or work done.

Where building erected without notice surveyor may enter.

46. If the builder to whom such notice is given make default in complying with the requisition thereof within such period of forty-eight hours, the surveyor may cause complaint of such non-compliance to be made before a Justice of the Peace, and such Justice, thereupon shall issue a summons, requiring the builder so in default to appear before him and one other Justice of the Peace; and if upon his appearance, or, in his absence, upon due proof of the service of such summons, it appear to such Justices that the requisitions

Complaints to be made if builder neglects to comply with notice.

*The Building Act.—1881.***PART I.**

requisitions made by such notice, or any of them, are authorised by this Act, they shall make an order on such builder, commanding him to comply with the requisitions of such notice, or any of such requisitions that may in his opinion be authorised by this Act, within a time to be named in such order.

Penalty if order of justices be not complied with.

47. If such order is not complied with, the builder upon whom it is made shall incur a penalty not exceeding Two Pounds a day, to be recovered before two Justices of the Peace, during every day of the continuance of such non-compliance.

Fees for Service of Surveyor.

Fees to be paid for services of surveyor.

48. There shall be paid to the Council, in respect of the several matters specified in the first part of the Second Schedule hereto, the fees therein specified, or such other fees as may from time to time be directed by the said Council; but one fee only shall be chargeable with respect to any such works done in, to, or upon any buildings as are, in pursuance of the provisions hereinbefore contained, included in one notice.

For special service Council may order special fee to be paid.

49. If any special service is required to be performed by the surveyor, under the First Part of this Act, for which no fee is specified in the said Schedule, the said Council may order such fee, not exceeding Five Pounds, to be paid to the said Council for such service as they think fit; and the said Council shall have the same remedy for recovering such special fee as if the same were expressly named in the said Schedule.

50. At the expiration of the following periods, that is to say—

Of one month after the roof of any building surveyed by the surveyor under this Act has been covered in:

Time when fees are to paid.

Of fourteen days after the completion of any such work as is by this Act placed under the supervision of the surveyor:

Of fourteen days after any special service in respect of any building has been performed:

The Council shall be entitled to receive the amount of fees due to them from the builder employed in erecting such building, or in doing such work, or in doing any matter in respect of which any special service has been performed by the surveyor, or from the owner or occupier of the building so erected, or in respect of which such work has been done or service performed; and if any such builder, owner, or occupier refuses to pay the same, such fees may be recovered in a summary manner before a Justice of the Peace, upon its being shown, to the satisfaction of such Justice, that a proper bill, specifying the amount of such fees, was delivered to such builder, owner, or occupier, or sent to him, in a registered letter, addressed to his last known residence.

Returns

*The Building Act.—1881.**Returns of the Surveyor.***PART I.**

51. The surveyor shall, within seven days after the first day of every month, make a return to the Council, in such manner as they may appoint, of all notices and complaints received by him relative to the business of his office, and the results thereof, and of all matters brought by him before any Justice of the Peace, and of all the several works supervised, and special services performed, by him in the exercise of his office within the previous month, and of all fees charged or received in respect thereof, and specify in such returns the description and locality of every building built, rebuilt, enlarged, or altered, or on which any work has been done under his supervision, with the particular nature of any work in respect of which any fee has been charged or received.

Surveyor to make
monthly return.

52. Every such return shall be signed by such surveyor, and shall be deemed a certificate that all the works enumerated therein as completed have been done in all respects agreeably to this Act, according to the best of his knowledge and belief, and that they have been duly surveyed by him.

Return to be signed
by surveyor.

53. Whenever any builder is desirous of erecting any permanent building of iron or other incombustible material to which the rules of this Act are inapplicable, he shall make an application to the Council stating such desire, and setting out a plan of the proposed building, with such particulars as to the construction thereof as may be required by the Council; and the latter, if satisfied with such plan and particulars, shall signify their approval of the same, and thereupon such building may be constructed according to such plan and particulars; but it shall not be lawful for such Council to authorise any warehouse or other building, used either wholly or in part for the purposes of trade and manufacture, to be erected of greater dimensions than two hundred and sixteen thousand cubic feet, unless it is divided by party walls in manner hereinbefore provided.

Application to be
made for permission
to erect iron building.

54. The Council may, for the purpose of regulating the proceedings of such applicants as aforesaid, from time to time issue such general rules as to the time and manner of making such applications, as to the plans to be presented, as to the expenses to be incurred, and as to any other matter or thing connected therewith, as they may think fit.

Council may make
rules as to applica-
tions.

55. A copy of any particulars rendered necessary by section 51 shall be submitted to the surveyor, and the approved drawings shall be open to inspection by the surveyor at all reasonable hours during the progress of the works. The approval by the Council of any plans or particulars, in pursuance of the foregoing provisions, shall be signified by writing under the hand of the Mayor and countersigned by the Town Clerk of such Council.

Approval of plans to
be signed.

56. The Council may from time to time prepare or sanction forms

Council to prepare
forms of various
notices.

*The Building Act.—1881.***PART II.**

forms of the various notices required by this Act, and may from time to time make such alterations therein as they deem requisite: and they shall cause every such form to be sealed with the Corporation seal, or marked with some distinguishing mark to be approved by the Council; and any notice made in a form sanctioned by the Council shall in all proceedings be held sufficient in law.

Expenses incurred in obtaining approval of Council to be paid by builder.

57. All expenses incurred in and about the obtaining such approval of the Council as aforesaid shall be paid by the builder to such person as the Council may appoint, and in default of payment may be recovered in a summary manner.

Building surveyor may be appointed.

58. The Council may, for the purpose of aiding in the execution of this Act, appoint some fit person to be called the Building Surveyor, together with such number of clerks as they may think fit, and such person may be removable by the said Council, and shall perform such duties as the Council directs.

PART II.**DANGEROUS STRUCTURES.**

Dangerous structures to be surveyed.

59. Whenever it is made known to the Council of the said city or other municipalities that any structure (including in such expression any building, wall, or other structure, and anything affixed to or projecting from any building, wall, or other structure), is in a dangerous state, such Council shall require a survey to be made of such structure by the surveyor, or by some other competent surveyor, and it shall also be the duty of the surveyor to make known to the Council any information he may receive with respect to any structure being in such state as aforesaid.

Certificate of surveyor as to state of building.

60. Upon the completion of his survey the surveyor employed shall certify to the Council his opinion as to the state of any such structure as aforesaid.

Proceedings to be taken if building is certified dangerous.

61. If such certificate is to the effect that such structure is not in a dangerous state, no further proceedings shall be had in respect thereof; but if it is to the effect that the same is in a dangerous state, the Council shall cause the same to be shored up, or otherwise secured, and a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner or occupier of such structure, requiring him forthwith to take down, secure, or repair the same, as the case requires.

If owner or occupier fail to comply with notice complaint to be made before a Justice.

62. If the owner or occupier to whom notice is given as last aforesaid fails to comply, as speedily as the nature of the case permits, with the requisitions of such notice, the Council may make complaint thereof before a Justice of the Peace, and it shall be lawful for such Justice to order the owner, or in his default the occupier, of any

*The Building Act.—1881.***PART II.**

any such structure to take down, repair, or otherwise secure to the satisfaction of the surveyor who made such survey as aforesaid, or of such other surveyor as the Council may appoint, such structure or such part thereof as appears to him to be in a dangerous state, within a time to be fixed by such Justice, and in case the same is not taken down, repaired, or otherwise secured within the time so limited, the Council may, with all convenient speed, cause all, or so much of such structure as is in a dangerous condition, to be taken down, repaired, or otherwise secured, in such manner as may be requisite; and all expenses incurred by the Council in respect of any dangerous structure, in virtue of the Second Part of this Act, shall be paid by the owner of such structure, but without prejudice to his rights to recover the same from any lessee or other person liable to the expenses of repairs.

63. If such owner cannot be found, or if on demand he refuses or neglects to pay the aforesaid expenses, the Council, after giving six months' notice of their intention to do so, by posting a printed or written notice in a conspicuous place on the structure in respect of which, or of part of which, they have incurred expense, or on the land whereon it stands, may sell such structure; and they shall, after deducting from the proceeds of such sale the amount of all expenses incurred by them, restore the surplus (if any) to the owner.

If owner cannot be found, Council may sell the structure.

64. In cases where any surplus is hereby made payable to any owner, if no demand for the same is made by any person entitled thereto within one year, then the same shall be paid into some bank, in the name and with the privity of the Curator of Intestate Estates, to be placed to his account there to the credit of the owner (describing him so far as the Council can), and to be paid out to the owner by order of the Supreme Court or a Judge thereof, on his applying by petition or summons, and proving his title thereto.

Surplus to be paid to owner.

65. There shall be paid to the Council as aforesaid, in respect of the surveyor or other surveyor's services under the Second Part of this Act, such fees, not exceeding the amount specified in the second part of the Second Schedule hereto, as may be from time to time directed by the said Council.

Fees to be paid under the Second Part of this Act.

66. If any special service is required to be performed by the surveyor, or by such other surveyor as aforesaid, under the Second Part of this Act, for which no fee is specified in the said Schedule, the Council may order such fee for such service as they think fit

Special services under the Second Part to be paid for as Council may order.

67. All expenses incurred by the Council in the matter of any dangerous structure under the provisions of the Second Part of this Act, shall be recoverable by them from the owner as a debt.

Recovery of expenses incurred by Council.

68. In cases where a structure has been certified by the surveyor, or such other surveyor as aforesaid, to be dangerous to its inmates

Inmates of a dangerous structure to be removed.

*The Building Act.—1881.***PART III.**

inmates, a Justice of the Peace may, if satisfied of the correctness of such certificate, upon the application of the Council, by order under his hand, direct the inmates of any such structure to be removed therefrom by a constable or other peace officer, and if they have no other abode, he may require them to be received into the Destitute Asylum, or other place established for the reception of the destitute poor of the city.

PART III.**PARTY STRUCTURES.**

Provisions as to party structures.

69. In the construction of the following provisions relating to party structures, such one of the owners of the premises separated by or adjoining to any party structure as is desirous of executing any work in respect of such party structure shall be called the building owner, and the owner of the other premises shall be called the adjoining owner.

Rights of Building and Adjoining Owners.

Rights of building owner.

70. The building owner shall have the following rights in relation to party structures, that is to say—

- I. A right to make good or repair any party structure that is defective or out of repair:
- II. A right to pull down and rebuild any party structure that is so far defective or out of repair as to make it necessary or desirable to pull down the same:
- III. A right to pull down any timber or other partition that divides any buildings, and is not conformable with the regulations of this Act, and to build instead a party wall conformable thereto:
- IV. In the case of buildings having rooms or storeys, the property of different owners intermixed, a right to pull down such of the said rooms or storeys, or any part thereof, as are not built in conformity with this Act, and to rebuild the same in conformity with this Act:
- V. In the case of buildings connected by arches or communications over public ways or over passages belonging to other persons, a right to pull down such of the said buildings, arches, or communication, or any part thereof, as are not built in conformity with this Act, and to rebuild the same in conformity with this Act:
- VI. A right to raise any party structure permitted by this Act to be raised, or any external wall built against such party structure, upon condition of making good all damage thereby to the adjoining premises or to the internal finishings and decorations thereof, and of carrying up to the requisite height

*The Building Act.—1881.**PART III.*

height all flues and chimney-stacks belonging to the adjoining owner on or against such party structure or external wall:

- vii. A right to pull down any party structure that is of insufficient strength for any building intended to be built, and to rebuild the same of sufficient strength for the above purpose, upon condition of making good all damage occasioned thereby to the adjoining premises, or to the internal finishings or decorations thereof:
- viii. A right to cut into any party structure, upon condition of making good any damage occasioned to the adjoining premises by such operation:
- ix. A right to cut away any footing or any chimney-breasts, jambs, or flues projecting from any party wall, in order to erect an external wall against such party wall, or for any other purpose, upon condition of making good all damage occasioned to the adjoining premises by such operation:
- x. A right to cut away or take down such parts of any wall or building of an adjoining owner as may be necessary in consequence of such wall or building overhanging the ground of the building owner, in order to erect an upright wall against the same, on condition of making good any damage sustained by the wall or building by reason of such cutting away or taking down:
- xi. A right to perform any other necessary works incident to the connection of party structures with the premises adjoining thereto:

But the above rights shall be subject to this qualification—that any building which has been erected previous to the time of this Act coming into force shall be deemed to be conformable to the provisions of this Act.

71. The building owner shall, in the event of desiring to go below the foundations of any adjoining premises, give notice in writing to the owners of such premises, and demand permission to execute at the cost of such building owner any underpinning that may be necessary; and provided such permission be refused or neglected to be given, then the person refusing or neglecting to give such permission shall be liable for any damage that may arise by reason of the absence of such underpinning.

Building owner to give notice of underpinning.

72. Whenever the building owner proposes to exercise any of the foregoing rights with respect to party structures, the adjoining owner may require the building owner to build on any such party structure certain chimney-jambs, breasts, or flues, or certain piers or recesses, or any other like works for the convenience of such adjoining owner, and it shall be the duty of the building owner to comply with such requisition in all cases where the execution of the required works will

Building owner exercising rights, adjoining owner may require chimney-jambs, &c., to be built.

not

*The Building Act.—1881.***PART III.**

not be injurious to the building owner, or cause to him unnecessary inconvenience or unnecessary delay in the exercise of his rights; and any difference that arises between any building owner and adjoining owner in respect of the execution of such works as aforesaid shall be determined in manner in which differences between building owners and adjoining owners are hereinafter directed to be determined.

Rules to be observed
with respect to
exercising rights of
building owner or
adjoining owner.

73. The following rules shall be observed with respect to the exercise by building owners and adjoining owners of their respective rights—

- i. No building owner shall, except with the consent of the adjoining owner, or in cases where any party structure is dangerous, in which cases the provisions hereby made as to dangerous structures shall apply, exercise any right hereby given in respect of any party structure, unless he has given at the least one month's previous notice to the adjoining owner, by delivering the same to him personally, or by sending it by post, in a registered letter, addressed to such owner at his last known place of abode; and every tenant from year to year shall be entitled to like notice unless he consent to dispense therewith, but such tenant from year to year shall not in any other respect have any rights or liabilities of an adjoining owner under this Act:
- ii. The notice so given shall be in writing or printed, or partly in print and partly in writing, and shall state the nature of the proposed work, and the time at which such work is proposed to be commenced:
- iii. No building owner shall exercise any right hereby given to him in such manner, or at such time, as to cause unnecessary inconvenience to the adjoining owner:
- iv. Upon the receipt of such notice the adjoining owner may require the building owner to build, or may himself build, on any such party-structure any works to the construction of which he is hereinbefore mentioned to be entitled:
- v. Any requisition so made by any adjoining owner shall be in writing or printed, or partly in print and partly in writing, and shall be delivered personally to the building owner within one month after the date of the notice being given by him, or be sent by post in a registered letter addressed to him at his last known place of residence; it shall specify the works required by the adjoining owner for his convenience, and shall, if necessary, be accompanied by explanatory plans and drawings:
- vi. If either owner does not, within fourteen days after the delivery to him of any notice or requisition, consent thereto, he shall be considered as having dissented therefrom, and thereupon a difference shall be deemed to have arisen between the building owner and the adjoining owner:

vii. In

*The Building Act.—1881.***PART III.**

VII. In all cases, not hereby specially provided for, where a difference arises between a building owner and adjoining owner in respect of any matter arising under this Act, unless both parties concur in the appointment of one arbitrator, they shall each appoint an arbitrator, and the two arbitrators so appointed shall select a third arbitrator, and such one arbitrator, or three arbitrators, or any two of them, shall settle any matter in dispute between such building and adjoining owner, with power by his or their award to determine the right to do, and the time and manner of doing any work, and, generally, any other matter arising out of, or incidental to, such difference; but any time so appointed for doing any work shall not commence until after the expiration of such period of three months, as is hereinbefore mentioned:

VIII. Any award given by such one arbitrator, or by such three arbitrators, or any two of them, shall be conclusive, and shall not be questioned in any Court:

IX. If either party to the difference makes default in appointing an arbitrator for ten days after notice has been given to him by the other party, in manner aforesaid, to make such appointment, the party giving the notice may make the appointment in the place of the party so making default:

X. The costs incurred in obtaining any such award as aforesaid shall be paid by such party, as such one arbitrator, or three arbitrators, or any two of them, may determine:

XI. If the parties to any such action agree as to the facts, a special case may be stated for the opinion of the Supreme Court; and any case so stated may be brought before the Court in like manner and subject to the same incidents in and subject to which the other special cases are brought before such Court, or as near thereto as circumstances will admit; and any costs that may have been incurred in the Court by the parties to such action as is mentioned in this section shall be deemed to be costs incurred in such action, and be payable accordingly.

74. Whenever any building owner has become entitled in pursuance of this Act to execute any work, it shall be lawful for him, his servants, agents, or workmen, at all usual times of working, to enter on any premises for the purpose of executing and to execute such work, removing any furniture, or doing any other thing that may be necessary; and if such premises are closed, he or they may, accompanied by a constable or other officer of the peace, break open any doors in order to such entry; and any owner or other person that hinders or obstructs any workman employed for any of the purposes aforesaid, or wilfully damages or injures the said work, shall incur for every such offence a penalty not exceeding Ten Pounds, to be recovered before two Justices of the Peace.

Building owner becoming entitled to execute work may enter adjoining premises.

75. Any

*The Building Act.—1881.***PART III.**

Adjoining owner may
require building
owner to give security.

75. Any adjoining owner may, if he thinks fit, by notice in writing, given by himself or his agent, require the building owner, before commencing any work which he may be authorised by this Act to execute, to give such security as may be agreed upon, or in case of difference may be settled by the Adelaide Local Court of Full Jurisdiction, for the payment of all such costs and compensation in respect of such work as may be payable by such building owner.

Rules as to party
structures.

76. The following rules shall be observed as to expenses in respect of any party structure, that is to say—

As to expenses to be borne by the building owner and adjoining owner :

- i. If any party structure is defective or out of repair, the expense of making good or repairing the same shall be borne by the building owner and adjoining owner in due proportions, regard being had to the use that each owner makes of such structure :
- ii. If any party structure is pulled down and rebuilt by reason of its being so far defective or out of repair as to make it necessary or desirable to pull down the same, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportions, regard being had to the use that each owner makes of such structure :
- iii. If any timber or other partition dividing any building is pulled down in exercise of the right hereinbefore vested in a building owner, and a party structure built instead thereof, the expense of building such party structure, and also of building any additional party structure that may be required by reason of such partition having been pulled down, shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such party structure, and to the thickness required to the respective buildings parted thereby :
- iv. If any room or storeys, or any part of any room or storeys, the property of different owners, and intermixed in any building, are pulled down in pursuance of the right hereinbefore vested in any building owner, and rebuilt in conformity with this Act, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion, regard being had to the use that each owner makes of such rooms or storeys :
- v. If any arches or communications, or any parts thereof, are pulled down in pursuance of the right hereinbefore vested in any building owner, and rebuilt in conformity with this Act, the expense of such pulling down and rebuilding shall be borne by the building owner and adjoining owner in due proportion,

*The Building Act.—1881.***PART III.**

proportion, regard being had to the use that each owner makes of such arches or communications.

As to expenses to be borne by Building Owner :

- VI. If any party structure, or external wall built against the same, is raised in pursuance of the power hereinbefore vested in any building owner, the expense of raising the same and making good all such damage, and of carrying up to the requisite height all such flues and chimneys as are hereinbefore required to be made good and carried up, shall be borne by the building owner :
- VII. If any party structure which is of proper materials and sound, or not so far defective or out of repair as to make it necessary or desirable to pull down the same, is pulled down and rebuilt by the building owner, the expense of pulling down and rebuilding the same, and of making good all such damage as is hereinbefore required to be made good, shall be borne by the building owner :
- VIII. If any party structure is cut into by the building owner, any expense of cutting into the same, and of making good the damage hereinbefore required to be made good, shall be borne by such building owner :
- IX. If any footing, chimney-breasts, jambs, or floor is cut away in pursuance of the powers hereinbefore vested in any building owner, the expense of such cutting away and of making good any damage hereinbefore required to be made good, shall be borne by the building owner.

77. Within one month after the completion of any work which any building owner is by this Act authorised or required to execute, and the expense of which is in whole or in part to be borne by an adjoining owner, such building owner shall deliver to the adjoining owner an account in writing of the expense of the work, specifying any deductions to which such adjoining owner or other person may be entitled in respect of old materials, or in other respects ; and every such work as aforesaid shall be estimated and valued at fair average rates and prices, according to the nature of the work and the locality, and the market price of materials and labor at the time.

Building owner to give an account to adjoining owner.

78. At any time within one month after the delivery of such account, the adjoining owner, if dissatisfied therewith, may declare his dissatisfaction to the party delivering the same, by notice in writing given by himself or his agent, and specifying his objections thereto ; and upon such notice having been given a difference shall be deemed to have arisen between the parties, and such difference shall be determined in manner hereinbefore provided for the determination of differences between building and adjoining owners.

Adjoining owner may appeal against account.

79. If within such period of one month as aforesaid, the party receiving such account does not declare, in manner aforesaid, his dissatisfaction

If within one month adjoining owner does not declare his

*The Building Act.—1881.***PART III.**

dissatisfaction he will be deemed to have accepted the account

dissatisfaction therewith, he shall be deemed to have accepted the same, and shall pay the same on demand to the party delivering the account, and if he fails to do so, the amount so due may be recovered as a debt.

If adjoining owner does not contribute building owner to be sole owner.

80. Where the adjoining owner is liable to contribute to the expenses of building any party structure, until such contribution is paid to the building owner at whose expense the same was built, the building owner shall stand possessed of the sole property in such structure.

Building owner incurring expense for adjoining owner, the latter to bear all the expenses.

81. Where any building owner has incurred any expenses on requisition of any adjoining owner, the adjoining owner making such requisition shall be liable for all the expenses, and in default of payment the same may be recovered from him as a debt.

Building owner failing to make good damage incurs a penalty.

82. Where any building owner is by the Third Part of this Act liable to make good any damage he may occasion to the property of an adjoining owner by any works authorised to be executed by him, or to do any other thing upon condition of doing which his right to execute such work is hereby limited to arise, and such building owner fails within a reasonable time to make good such damage, or to do such thing, he shall incur a penalty, to be recovered before two Justices of the Peace, not exceeding Twenty Pounds for each day during which such failure continues.

How notice is to be served where owner is under disability.

83. Where, in pursuance of this Act, any consent is required to be given, any notice to be served, or any other thing to be done by, on, or to any owner under disability, such consent may be given, such notice may be served, and such thing may be done by, on, or to the following persons on behalf of such persons under disability, that is to say—By, on, or to a husband on behalf of his wife; by, on, or to a trustee on behalf of his *cestui que* trust; by, on, or to a guardian or committee on behalf of an infant, idiot, or lunatic.

When owner is incapable Local Court may give consent.

84. Where any consent is required to be given, or any other thing to be done, by any owner, in pursuance of this Act, if there is no owner capable of giving such consent, or to do such thing on behalf of such owner, or if any owner so capable, or any person so empowered cannot be found, the nearest Local Court of Full Jurisdiction shall have full power to give such consent, or to do, or to cause to be done, such thing on behalf of such owner, upon such terms and subject to such conditions as such Court may think fit, having regard alike to the nature and purpose of the subject matter in respect of which such consent is to be given, and to the fair claims of the parties on whose behalf such consent is to be given; and such Court shall have power to dispense with the service of any notice which would otherwise be required to be served.

No building to project on any footway.

85. No building which may hereafter be erected shall encroach or project on any public street or place; and no building which may
now

The Building Act.—1881.

now so encroach or project shall be rebuilt either wholly or in part, and no addition or alteration shall be made thereto except according to a plan to be first approved by the surveyor, in which plan such building shall be placed clear of and without the distance defined for the breadth of such public street or place; but nothing herein contained shall prevent any person, with the consent of the surveyor (after plans thereof shall have been submitted to and approved by the Council), from erecting a balcony in front of his building, with a framework securely fixed and supported upon iron brackets or other sufficient supports of incombustible material, which balcony shall be erected to the satisfaction of the surveyor; or from erecting or placing an awning or verandah in front of his building, provided that such awning or verandah be eight feet at the least in height above the footway in front of such building, and that the posts for the support thereof be placed close to the kerbstone or outer edge of such footway, and as the Council may direct.

PART III.

PART IV.

PART IV.

MISCELLANEOUS PROVISIONS.

86. Where it is hereby declared that expenses are to be borne by the owner of any premises, including in the term owner the adjoining and building owner respectively, the following rules shall be observed with respect to the payment of such expenses---

Rules to be observed
as to payment of
expenses.

- I. The owner immediately entitled in possession to such premises, or the occupier thereof, shall, in the first instance, pay such expenses, with this limitation—that no occupier shall be liable to pay any sum exceeding in amount the rent due, or that will thereafter accrue due, from him in respect of such premises during the period of his occupancy:
- II. If there are more owners than one, every owner shall be liable to contribute to such expenses in proportion to his interest:
- III. If any difference arises as to the amount of contribution, such difference shall be decided by arbitration, to be conducted in manner directed by “The Railways Clauses Consolidation Act,” and, for that purpose, the clauses of the said Act, with respect to the settlement of disputes by arbitration, shall be incorporated with this Act, and for the purposes of such incorporation the term “Special Act” wherever used in the said Act shall mean this Act, and the expression “Company,” or directors of the company, shall mean the Council.

“The Railways
Clauses Consolidation
Act.”

IV. If

*The Building Act.—1881.***PART IV.**

- iv. If some of the owners liable to contribution cannot be found, the deficiency so arising shall be divided amongst the parties that can be found:
- v. Any occupier of premises who has paid any expenses under this Act may deduct the amount so paid from any rent payable by him to any owner of the same premises; and any owner of premises who has paid more than his due proportion of any expenses may deduct the amount so overpaid from any rent that may be payable by him to any other owner of the same premises:
- vi. If default is made by any owner or occupier in payment of any expenses hereby made payable by him in the first instance, or if default is made by any owner in payment of any other expenses or moneys due from him by way of contribution or otherwise, in pursuance of this Act, then, in addition to any other remedies hereby provided, such expenses and moneys, if arising in respect of any matter within the provisions of the Third Part of this Act, may be recovered as a debt in due course of law, but if arising in respect of any other matter under this Act, may be recovered in a summary manner.

Notices.

87. The following rules shall be observed with respect to the giving or service of any notice, summons, or order, directed to be given or served under this Act in cases not hereinbefore provided for—

- i. A notice, summons, or order shall, where practicable, in all cases be served personally:
- ii. A notice, summons, or order may be served on any builder by leaving the same or sending it in a registered letter addressed to him at his place of address as stated by him to the surveyor, or by putting up such notice, summons, or order on a conspicuous part of the building or premises to which the same relates:
- iii. A notice, summons, or order may be served on the owner or occupier of any premises by leaving the same with the occupier of such premises, or with some inmate of his abode, or, if there is no occupier, by putting up such notice, summons, or order on a conspicuous part of the building or premises to which the same relates, and it shall not be necessary to name the owner or occupier of such premises; nevertheless when the owner of any such premises, and his residence, or that of his agent, are known to the party by whom, or on whose behalf any notice, summons, or order is intended to be served, it shall be the duty of such party to send every such notice, summons, or order, by the post in a registered letter, addressed to the residence, or last known residence, of such owner, or of his agent:

iv. A

The Building Act.—1881.

IV. A notice, summons, or order may be served on any surveyor by leaving the same at his office.

PART IV.

88. In cases where jurisdiction is hereby given to a Local Court, such Court may from time to time make such order in respect of matters so brought before it as it may think fit, with power to settle the time and manner of executing any work, or of doing any other thing, and to put the parties to the case upon such terms as respects the execution of the work as it thinks fit; it shall also have power to award and refuse costs, according to circumstances, and to settle the amount hereof, although the same may exceed the amount of Ten Pounds.

Local Court may make orders.

89. Proceedings in any Local Court in respect of any matter arising under this Act shall be conducted in the same manner as proceedings are conducted in any ordinary case within the jurisdiction of such Court, or as near thereto as circumstances permit; and orders made by such Court shall for all purposes be deemed to be judgments of the said Court, and may be enforced by execution or otherwise, in a similar manner to that in which the judgments of such Court are ordinarily enforced: And in all cases where the judgment of such Court is to do some act other than the payment of money, any neglect to perform such act within the time limited in such judgment shall subject the person ordered to do such act to a penalty of Five Pounds a day until such act is performed.

Proceedings.

90. If either party in any case over which jurisdiction is hereby given to a Local Court feels aggrieved with the decision of such Court, in respect of any point of law, or the admission or rejection of any evidence, or on the ground that such decision is against the weight of evidence, he may appeal therefrom to the Supreme Court in the same manner and upon the same terms in and upon which he might have appealed from the decision of such Court in any case within the ordinary jurisdiction of such Court, or as near thereto as circumstances permit; but no such appeal shall be allowed unless the value of the matter in difference between the parties exceeds Thirty Pounds, and the opinion of the Court before which the case is tried as to such value shall be conclusive.

Appeal from Local Court.

91. All penalties under this Act, and all fees, moneys, costs, or expenses, by this Act directed to be recovered in a summary manner, may be recovered before any two or more Justices of the Peace in manner directed by an Ordinance, No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of sessions, with respect to summary convictions and orders," or of any Act to be hereafter in force relating to duties of Justices of the Peace with respect to summary convictions and orders.

Penalties, how recovered.

92. Any Justices of the Peace, in any case over which jurisdiction is hereby given them, may make such order as to the cost of any proceedings of which they have cognizance as they think just; they may

Justices may make orders.

*The Building Act.—1881.***PART IV.**

may also direct the whole or any part of any penalty imposed by them under this Act to be applied in or towards the payment of the costs of the proceedings, and subject to such direction, all penalties shall be paid into the hands of the Treasurer of the province towards the general revenue thereof.

Appeal.

93. In every case, except in respect of fees of the Council, in which jurisdiction is hereinbefore given to one or more Justice or Justices of the Peace, if either party to any such case is dissatisfied with the determination of the Justice or Justices so convicting, in respect of any point of law, or of the admission or rejection of any evidence, or on the ground that such determination is against the weight of evidence, such party may, upon giving notice within seven days to the other party of his intention to appeal, appeal therefrom to the nearest Local Court of Full Jurisdiction, subject to this restriction, that no such appeal shall be made by the informant, except with the consent of the Justices before whom the case was tried, and that no such appeal shall be made by any other party to the case, except upon giving such security for costs, and if the case requires it, in addition thereto, such undertaking in respect of desisting in the meantime from any works complained of, or in respect of any other matter or thing arising in the case, as the Justice or Justices think fit.

Appeal to be in form of special case.

94. Any appeal so made shall be in the form of a special case, to be agreed on by both parties, or if the parties cannot agree, to be settled by the Justice or Justices from whose decision the appeal was made, and such case shall be transmitted by the appellant to the Court in which the appeal is to be brought, and be heard in the manner provided by the Ordinance No. 6 of 1850, hereinbefore mentioned.

Surveyor not to be proceeded against until after notice.

95. No writ or process shall be sued out against the surveyor or other person for anything done or intended to be done under the provisions of this Act until the expiration of one month next after notice in writing has been delivered to him, or left at his office or usual place of abode, stating the cause of action, and the name and place of abode of the intended plaintiff, or of his attorney or agent in the cause; and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in such last-mentioned notice, and, unless such notice is proved, the Court or Jury shall find for the defendant; and every such action shall be brought or commenced within six months next after the accrual of the cause of action, and not afterwards; and the defendant shall be at liberty to plead the general issue, and give this Act, and all special matter in evidence thereunder.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

FIRST

*The Building Act.—1881.***FIRST SCHEDULE.****PRELIMINARY.**

1. Every building shall be enclosed with walls of brick, stone, concrete, or other hard and incombustible substances, and the foundation shall rest on the solid ground, or upon concrete, or upon other solid sub-structure.

2. Every wall constructed of brick, stone, concrete, or other similar substances, shall be properly bonded with mortar or cement, and no part of such wall shall overhang any part underneath it, except in so far as is provided in this Act, and all return walls shall be properly bonded together.

3. Every such wall shall be provided with damp-proof course or courses other than wood, which damp-proof course or courses shall be above the surface of the ground or cellar floor.

4. Where the walls are over eight and a-half inches thick, the thickness of every rubble stone wall shall be one-fourth greater than the thickness prescribed for brick walls in the rules hereinafter contained, but no rubble stone wall shall be less than thirteen and a-half inches thick.

5. The thickness of every wall, as hereinafter determined, shall be the minimum thickness, except where recesses are allowed in accordance with section 13.

6. The heights of every topmost story shall be measured from the level of its floor up to the underside of the tie of the roof, or up to half of the vertical height of the rafters when the roof has no tie, and the height of every other story shall be the clear height of such story exclusive of the thickness of the floor.

7. The height of every external and party wall shall be measured from the base of the wall to the level of the top of the topmost story.

8. Walls are deemed to be divided into distinct lengths by return walls, and the length of every wall is measured from the centre of one return wall to the centre of another: Provided that such return walls are external, party, or cross walls, of the thickness hereinafter required, and bonded into the walls so deemed to be divided.

9. The projections of the bottom of the footing of every wall, on each side of the wall, shall be at least equal to one-half of the thickness of the wall at its base; and the height from the bottom of such footing to the base of the wall shall be at least equal to one-half of the thickness of the wall at its base.

PART I.

1. The external and party walls of dwelling-houses or offices shall be made throughout the different stories of the thickness shown in the following table, arranged according to the heights and lengths of the walls, and calculated for walls up to one hundred feet in height, and supposed to be built of bricks not less than eight and a half inches nor more than nine and a half inches in length, the heights of the stories being subject to the conditions hereinafter given:—

Rules for the Walls of Dwelling-houses.

1. Height up to 100ft.	2. Length up to 45ft. Two stories—21½in. Three stories—17½in. Remainder—13in.	3. Length up to 80ft. Two stories—26in. Two stories—21½in. Two stories—17½in. Remainder—13in.	4. Length Unlimited. One story—30in. Two stories—26in. Two stories—21½in. Two stories—17½in. Remainder—13in.
Height up to 90ft.	Length up to 45ft. Two stories—21½in. Two stories—17½in. Remainder—13in.	Length up to 70ft. One story—26in. Two stories—21½in. Two stories—17½in. Remainder—13in.	Length Unlimited. One story—30in. Two stories—26in. One story—21½in. Two stories—17½in. Remainder—13in.
Height up to 80ft.	Length up to 40ft. One story—21½in. Two stories—17½in. Remainder—13in.	Length up to 60ft. Two stories—21½in. Two stories—19½in. Remainder—13in.	Length Unlimited. One story—26in. Two stories—21½in. Two stories—17½in. Remainder—13in.

Rules

*The Building Act.—1881.**Rules for the Walls of Dwelling-houses (continued).*

1.	2.	3.	4.
Height up to 70ft.	Length up to 40ft. Two stories—17½in. Remainder—13in.	Length up to 55ft. One story—21½in. Two stories—17½in. Remainder—13in.	Length Unlimited. One story—26in. Two stories—21½in. One story—17½in. Remainder—13in.
Height up to 60ft.	Length up to 30ft. One story—17½in. Remainder—13in.	Length up to 50ft. Two stories—17½in. Remainder—13in.	Length Unlimited. One story—21½in. Two stories—17½in. Remainder—13in.
Height up to 50ft.	Length up to 30ft. Wall below the topmost story—13in. Topmost story—8½in. Remainder—8½in.	Length up to 45ft. One story—17½in. Rest of wall below topmost story—13in. Topmost story—8½in. Remainder—8½in.	Length Unlimited. One story—21½in. One story—17½in. Remainder—13in.

1.	2.	3.
Height up to 40ft.	Length up to 35ft. Wall below topmost stories—13in. Two topmost stories—8½in. Remainder—8½in.	Length Unlimited. One story—17½ in. Rest of wall below topmost story—13in. Topmost story—8½in. Remainder—8½in.
Height up to 30ft.	Length up to 30ft. Wall below 2 topmost stories—13in. Two topmost stories—8½in. Remainder—8½in.	Length Unlimited. Wall below topmost story—13in. Topmost story—8½in. Remainder—8½in.
Height up to 25ft.	Length up to 30ft. From base to top of wall—8½in.	Length Unlimited. Wall below topmost story—13in. Topmost story—8½in. Remainder—8½in.

3. In using the above table, the height of the wall is to be reckoned on the first vertical column on the left hand of the table, and the length of the wall on the corresponding horizontal column. The thickness of the wall in each story is given in inches, and begins with the wall from the base upwards.

4. If any external or party wall, measured from centre to centre, is not more than twenty-five feet distant from any other external or party wall to which it is tied by the beams of any floor or floors other than the ground floor, or the floor of any story formed in the roof, the length of such wall is not to be taken into consideration, and the thickness of the wall will be found in the second vertical column in the above table.

5. If any story exceed in height sixteen times the thickness prescribed for the walls of such story in the above table, the thickness of each external and party wall throughout such story shall be increased to one-sixteenth part of the heights of the story; but any such additional thickness may be confined to piers, properly distributed, of which the collective widths amount to one-fourth part the length of the wall.

6. No story enclosed with walls less than thirteen inches in thickness shall be more than fourteen feet in height.

7. The thickness of any wall of a dwelling-house, if built of materials other than such bricks as aforesaid, shall be deemed to be sufficient if made of the thickness required

The Building Act.—1881.

required by the above tables, or of such less thickness as may be approved by two disinterested competent referees, with this exception—that in the case of walls built of rubble stone no diminution shall be allowed in the thickness required by the foregoing rules for such last mentioned walls.

8. All buildings, excepting public buildings, and such buildings as are hereinafter defined to be buildings of the warehouse class, shall, as respects the thickness of their walls, be subject to the rules given for dwelling-houses.

PART II.

Rules for the Walls of Buildings of the Warehouse Class.

1. The warehouse class shall comprise all warehouses, manufactories, breweries, and distilleries, and chimneys appertaining to the same.

2. The external and party walls of buildings of the warehouse class shall, at the base, be made of the thickness shown in the following table, calculated for walls up to one hundred feet in height, and supposed to be built of bricks not less than eight and a half inches, and not more than nine and a half inches in length.

1. Height up to 100ft.	2. Length up to 55ft. Base—26in.	3. Length up to 70ft. Base—30in.	4. Length Unlimited. Base—34in.
Height up to 90ft.	Length up to 60ft. Base—24in.	Length up to 70ft. Base—30in.	Length Unlimited. Base—34in.
Height up to 80ft.	Length up to 45ft. Base—21½in.	Length up to 60ft. Base—26in.	Length Unlimited. Base—30in.
Height up to 70ft.	Length up to 30ft. Base—17½in.	Length up to 45ft. Base—21½in.	Length Unlimited. Base—26in.
Height up to 60ft.	Length up to 35ft. Base—17½in.	Length up to 50ft. Base—21½in.	Length Unlimited. Base—26in.
Height up to 50ft.	Length up to 40ft. Base—17½in.	Length up to 70ft. Base—21½in.	Length Unlimited. Base—26in.
Height up to 40ft.	Length up to 30ft. Base—13in.	Length up to 60ft. Base—17½in.	Length Unlimited. Base—21½in.
Height up to 30ft.	Length up to 45ft. Base—13in.	Length Base—	Unlimited. 17½in.
Height up to 25ft.	Length Base—	Unlimited. 13in.	

4. The above table is to be used in the same manner as the table previously given for the walls of dwelling-houses, and is subject to the same qualifications and conditions respecting walls not more than twenty-five feet distant from each other.

5. The thickness of the walls of buildings of the warehouse class at the top, and for sixteen feet below the top, shall be thirteen and a-half inches, and the intermediate parts of the wall between the base and such sixteen feet below the top shall be built solid throughout the space between straight lines drawn on each side of the wall,

The Building Act.—1881.

wall, and joining the thickness at the base to the thickness at sixteen feet below the top, as above determined.

6. If in any story of a building of the warehouse class the thickness of the wall, as determined by the rules hereinbefore given, is less than one-fourteenth part of the height of such story, the thickness of the wall shall be increased to one-fourteenth part of the height of the story; but any such additional thickness may be confined to piers properly distributed, of which the collective widths amount to one-fourth part of the length of the wall.

7. The thickness of any wall of a building of the warehouse class, if built of materials other than such bricks as aforesaid, shall be deemed to be sufficient if made of the thickness required by the above tables, or of such less thickness as may be approved by two disinterested competent referees, with this exception—that in the case of walls built of rubble stone no diminution shall be allowed in the thickness required by the foregoing rules for such last-mentioned walls.

8. The thickness of the walls of any building of the warehouse class of greater height than one hundred feet shall be subject to the special sanction of the Council.

MISCELLANEOUS.

1. The thickness of a cross wall shall be two-thirds the thickness hereinbefore required for an external or party wall of the same dimensions, and belonging to the same class of buildings, but never less than eight and a half inches. No wall sub-dividing any building shall be deemed to be a cross wall unless it is carried up two-thirds of the height of the external or party walls, and unless the recesses or openings therein do not exceed one-half the vertical surface of the wall in each story.

2. The thickness of every rubble stone wall shall be one-fourth greater than the thickness prescribed in the rules aforesaid.

3. Buildings to which the preceding rules are applicable require the special sanction of the Council.

4. The thickness of cross or partition walls, where the building is of one story, shall not be less than four inches and a-half; and for buildings of two stories the cross wall on the ground-floor shall not be less than four inches and a-half; and for the construction of rooms on the first-floor where no cross walls are under, stud partitions may be used, such stud partitions shall not be less than six inches, which shall include lath and plaster.

SECOND SCHEDULE.

FEES PAYABLE TO THE MUNICIPAL COUNCIL.

PART I.

Fees for New Buildings.

	£	s.	d.
For every building not exceeding six hundred feet in area, and not more than two stories in height	1	10	0
For every additional story	0	5	0
For every additional square of one hundred feet or fraction of such square	0	2	6
But no fee shall exceed Ten Pounds. And for every building not exceeding four hundred square feet in area, and one story only in height	0	15	u

Fees for Additions or Alterations.

For every addition or alteration made in any building after the roof thereon has been covered in, the fee shall be half of the fee charged for a new building			
For inspecting the arches or stone floors over or under public ways	0	10	0
For inspecting the formation of openings in party walls	0	10	0

PART II.

For inspecting dangerous structures by direction of the Council	1	0	0
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N.B.—In this schedule "area" shall include the area of any attached building.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 209.

An Act to amend the "Imprint Act of 1863."

[Assented to, November 18th, 1881.]

WHEREAS it is desirable to amend the "Imprint Act of 1863," Preamble.
by providing means for the recovery of penalties thereunder
—Be it therefore Enacted by the Governor of the Province of
South Australia, with the advice and consent of the Legislative
Council and House of Assembly of the said province, in this present
Parliament assembled, as follows:

1. Section 6 of the "Imprint Act of 1863" is hereby repealed. Repeal.

2. Every proceeding under the "Imprint Act of 1863," in Penalties may be re-
respect of any omission, default, neglect, act, or offence to which covered in a summary
any penalty is attached shall be heard and determined in a summary way.
way by any Special Magistrate or two Justices of the Peace under
the provisions of an Ordinance, No. 6 of 1850, "To Facilitate the
Performance of the Duties of Justices of the Peace out of Sessions
with respect to Summary Convictions and Orders," or of any Act
hereafter to be in force relating to the duties of Justices with respect
to summary convictions and orders, and all convictions and orders
may be enforced as in the said Ordinance, or in any such Act here-
after to be in force is or may be provided.

3. There shall be an appeal from any conviction by any Special Appeal to Adelaide
Magistrate or Justices for any offence against the "Imprint Act of Local Court of Full
1863," or from any order dismissing any information, which appeal Jurisdiction.
shall be to the Local Court of Adelaide of Full Jurisdiction only,
and the proceedings on such appeal shall be conducted in manner
appointed

Imprint Amendment Act.—1881.

appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts, or any Act hereinafter to be in force regulating such appeals; but the said Local Court of Adelaide may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed the sum of Ten Pounds.

Local Court, upon hearing of appeal, may state special case.

4. The said Local Court of Adelaide, upon the hearing of any such appeal, may state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases, and the Supreme Court shall make order as to costs of any special case as to the said Court shall appear just; and any Justices or the Local Court of Adelaide shall make an order in respect to the matters referred to the Supreme Court in conformity with the certificate of the said Supreme Court, which order of the Justices or Local Court shall be expressed in manner provided for the enforcement of orders of Justices under the said Ordinance, No. 6 of 1850, or other Act as aforesaid; and, save as herein provided, no order or proceeding of any Special Magistrate or Justices, or of the Local Court of Adelaide, made under the authority of this Act, shall be appealed against, or removed by *certiorari* or otherwise into the Supreme Court of the said province.

Incorporation.

5. This Act and the "Imprint Act of 1863," except so far as the latter is altered by this Act, shall be incorporated and read as one Act.

Short title.

6. This Act may be for all purposes cited as the "Imprint Amendment Act, 1881."

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

45



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 210.

An Act to repeal "The Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872," and to make other provisions in lieu thereof :

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to repeal "The Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872," and to make other provisions in lieu thereof—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

Preamble.

1. This Act may be cited as "The Destitute Persons Act, 1881." Short title of Act.

2. "The Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872," is hereby repealed : Provided always that no Acts or Ordinances by the said last-mentioned Act repealed shall be hereby revived ; and that no things done, appointments made, contracts entered into, orders or mandates made, offences committed, and penalties incurred, shall, by reason of such repeal, become invalidated or condoned ; and that all orders, mandates, convictions, or other proceedings, acts, and deeds made, taken, pending, or executed under and by virtue of the said hereby repealed Act shall and may be supported and maintained by virtue thereof ; and also that all proceedings that may have been commenced before this Act shall come into operation, may be continued and completed under the said repealed Act. Repeal.

The Destitute Persons Act.—1881.

Interpretation.

3. In the construction of this Act, unless inconsistent with the context or subject-matter, the following words shall have the meanings hereby assigned to them respectively, that is to say—

“Judge” shall mean any Judge of the Supreme Court of the said province:

“Justices” shall mean any two or more Justices of the Peace for the said province, and shall also mean any Special Magistrate of the said province:

“The “Board” shall mean the Destitute Board hereinafter mentioned:

“Child,” except in Part I. of this Act, shall mean any boy under the age of sixteen years, or any girl under the age of eighteen years; and, in the absence of positive evidence as to age, shall mean under the apparent ages of sixteen and eighteen years respectively:

“Inmate” shall mean any destitute child, neglected child, or convicted child admitted into or detained in any Industrial or Reformatory School, or who shall be elsewhere under the control of the Board; and also any child born in, or person admitted into, any establishment under the control of the Board; and also all illegitimate children under the control of the Board; and also any person admitted into any Destitute Asylum, or institution, or place under the control of the Board:

“Destitute Child” shall mean any child who shall have no sufficient means of subsistence apparent to the Board or any two Justices of the Peace, or whose parents or other relatives who, by this Act are made chargeable with the support and maintenance of such child, are in indigent circumstances and unable to support such child, or who, at the time of coming into operation of this Act, shall be an inmate of any Destitute Asylum, Industrial or Reformatory School, or other institution or place, under the control of the Board:

“Neglected Child” shall mean—

- i. Any child found begging or receiving alms, or being in any street or public place for the purpose of begging or receiving alms:
- ii. Any child who shall be found wandering about or frequenting any street, thoroughfare, tavern, or place of public resort, or sleeping in the open air, and who shall not have any home or settled place of abode:
- iii. Any child who shall reside in any reputed brothel, or with any known or reputed prostitute, whether such prostitute shall be the parent of such child or not:
- iv. Any child who shall associate or dwell with any person not being the parent of the child, known or reputed to be a thief or drunkard, or with any such person convicted of vagrancy:
- v. Any

The Destitute Persons Act.—1881.

- v. Any child who, having been convicted of an offence punishable by imprisonment, or some less punishment, ought, nevertheless, in the opinion of the Justices, regard being had to the circumstances of his case, to be sent to an Industrial or to a Reformatory School :
- vi. Any child whose parent represents that he is unable to control such child, and that he wishes him to be sent to an Industrial or Reformatory School :
- vii. Any illegitimate child whose mother or friends are not, in the opinion of the Board, in a position to maintain such child :

“Convicted Child” shall mean any child who shall be convicted of any offence punishable by imprisonment

4. This Act shall be divided into five parts, as follows—

Act divided into parts.

PART I.—The Maintenance of Indigent Poor by their Relations:

PART II.—The Destitute Board ; its duties and functions:

PART III.—Industrial and Reformatory Schools ; including placing out the children with foster-parents, and binding their inmates as apprentices :

PART IV.—The Supervision of all Illegitimate Children born in Establishments under the control of the Destitute Board, and of all other children nursed by foster-mothers, with provisions and powers for licensing all such foster-mothers :

PART V.—Protection of Officers, and General Matters.

PART I.

PART I.

THE MAINTENANCE OF INDIGENT POOR BY THEIR RELATIVES.

5. The father, grandfather, mother, and grandmother, and the children and grandchildren of every poor and destitute person who is not able to support himself, shall, at his and their own costs and charges, according to his and their several abilities, relieve and maintain every such destitute person, and in default of so doing shall be subject to the provisions hereinafter contained.

Destitute persons to be maintained by relatives.

6. Every husband whose wife shall have a child or children at the time of his marriage, whether such child or children shall be legitimate or illegitimate, shall be liable to maintain such child or children as a part of his family, until such child or children shall respectively attain the ages, if a boy, of sixteen years, and if a girl, of eighteen years, and such child or children shall, for the purposes of this Act, be deemed to constitute part of such husband's family.

Husband to maintain wife's children.

7. Upon application or complaint made by or on behalf of any destitute person, any Justice of the Peace for the said province may issue

On application of destitute persons Justice to issue summons.

*The Destitute Persons Act.—1881.***PART I.**

issue a summons requiring the relative or relatives therein named to appear before any Justices, at a time and place to be named in such summons, to show cause why he or they should not relieve and maintain, or contribute to the relief and maintenance, of such destitute person.

Two Justices to hear such application in a summary way, and to make order thereon.

8. The place appointed for hearing such summons shall be as near as can conveniently be found to the locality in which such destitute person shall be residing, at the time when such summons shall be issued, and at the time and place appointed for hearing such summons, any two Justices may hear and determine the matter of such complaint in a summary way, and upon such hearing, the Justices shall inquire as to the person or persons who, by this Act are bound to maintain his or their destitute relatives, and as to his or their means and ability; and, if they shall see fit, may adjourn the further hearing of the said application and complaint, and appoint a time, and the same or some other place for hearing the said adjourned summons, and may summon and require any other such person or persons who have not been summoned to appear at the day appointed for the adjourned hearing, and may, at the original or any adjourned hearing, dismiss the said application, either entirely or as regards such one or more person or persons so summoned as they may consider not of sufficient ability to maintain or contribute to maintenance of such destitute person; and, in case they shall find any person or persons so able, shall fix such a moderate sum or rate as in their discretion ought to be allowed for the maintenance of such destitute person, and the periods at which the same is to be payable, and shall appoint a person to whom and a place where such payment shall be made; and in case two or more persons shall be found so able, the Justices shall assess the several proportions upon the said persons according to their respective abilities, and thereupon shall make an order in writing, directing the payment of the said rate or sum or sums so assessed accordingly.

Husband or father deserting wife or children may be summoned.

9. When any husband unlawfully deserts his wife, or leaves her without adequate means of support, or where any wife, who has been deserted by her husband, or any mother who is a widow, deserts her children or leaves them or any of them without adequate means of support; or where any father deserts his children, whether illegitimate or born in wedlock, or his wife's children, as referred to in section 6, or leaves them or any of them, without adequate means of support, any Justice of the Peace may, upon application or complaint thereof made by or on behalf of such wife or children, issue a summons to such husband, wife, widow, or father, to show cause why he or she should not support his wife or his or her children, and such Justice, if a Special Magistrate, may, in his discretion, issue his warrant for the apprehension of such husband, wife, widow, or father in the first instance.

Such complaint to be heard by Justices in a summary way, and

10. Upon the day appointed for the hearing, any Justices may hear and determine the matter of such complaint in a summary way;

The Destitute Persons Act.—1881.

way; and if they be satisfied that the wife or the children, as the case may be, are in fact without adequate means of support, and that the husband, or the mother as aforesaid, or the father is able to maintain her or them, or to contribute to her or their maintenance, such Justices shall make an order in writing, directing him or her to pay either weekly or monthly, at their discretion, and to such person and in such manner, for her or their use, as such Justices may think fit, such moderate sum or allowance as they may consider proper.

PART I.

order to be made thereon.

11. Any Justices, on the complaint of any person liable upon or entitled to the benefit of any order for the periodical payment of any sum of money as aforesaid, and during the period such order continues in force, may make further inquiry as to the ability of the person upon whom such order shall have been made, and increase or lessen, or entirely remit the amount so ordered to be paid.

Justices may, during currency of order, make further order to increase, lessen, or entirely remit amount ordered to be paid.

12. If it shall be made to appear to any Justices that any person endeavors to evade compliance with any order hereinbefore authorised to be made, or if any such person shall wilfully make default in any payment, such Justices may require such person, either immediately or at some adjournment, to find such good and sufficient surety or security, to the satisfaction of the Justices then present, or present at any adjourned hearing, that he or she will comply with such order of maintenance, or that he or she will not desert or leave without adequate means of support, his said wife, or his or her children; and such Justices may, in default of such surety or security being found, commit such person to gaol for any period not exceeding six months, if such order be not sooner complied with: Provided that it shall be lawful for any Justices to determine upon the sufficiency of any proposed surety or security, and to whom and in what manner the same shall be made; and any one Justice of the Peace, upon being satisfied that the same has been duly made and perfected, may order the discharge of such person from gaol or custody.

Justices may require security for compliance with order, and in default may commit to gaol.

13. The wife of any husband shall be competent and compellable to give evidence for or against her husband in all matters and complaints under this Act; and any husband shall be a competent witness on his own behalf.

Wife and husband competent and compellable to give evidence.

14. The provisions of this Act shall extend to and may be made use of by and on behalf of illegitimate children, as against the father or mother of such children: Provided that no man shall be taken to be the father of any illegitimate child upon the oath of the mother only: Provided also that no man shall be adjudged to be the father of an illegitimate child upon the evidence of the mother, unless such evidence be corroborated in some material particular by other and independent testimony: And provided also, that if it shall be shown that, at the time such child was begotten, the mother was a common prostitute, no order shall be made hereunder, as against the alleged father of such child.

Provision as to illegitimate children.

15. In

*The Destitute Persons Act.—1881.***PART I.**

Mother of bastard
may be ordered to
contribute.

15. In any case where it shall appear to the Justices that the mother of any child, whether legitimate or illegitimate, is able to contribute to its support, it shall be lawful for them to direct that she shall so contribute as well as the father, in such proportions respectively and in such manner as such Justices shall think fit; and if in any case it shall appear that the mother only is of such ability, it shall be lawful for the Justices to make an order in respect of her alone.

Proceedings for
enforcing orders.

16. It shall be lawful for any Justices from time to time to make such orders in writing for better securing the payment and regulating the receipt of any allowance under this Act, or for insuring the due application of such allowance to the *bonâ fide* purposes of main tenance, or for causing any child or children to be properly brought up and educated.

PART II.**PART II.****ESTABLISHMENT OF DESTITUTE BOARD: ITS DUTIES AND FUNCTIONS.**

Appointment of
Destitute Board.

17. It shall be lawful for the Governor to appoint a Chairman and five other persons to form a Board of Advice, to be called "The Destitute Board," to carry this Act into execution, and from time to time, at pleasure, to remove any member of the Board for the time being, and upon every vacancy in the Board to appoint some other fit person to the said office; and until such new appointment it shall be lawful for the surviving or continuing member or members to act as if no such vacancy had occurred.

Duties of Chairman.

18. The lastly hereinbefore mentioned Chairman of the Board shall be, and he is hereby charged with the due administration of all and singular the powers and authorities hereby vested in the Board, and he shall administer the said powers and authorities, subject to the advice and control of the Board, and pursuant to the regulations of the Public Service of the said province.

Vacancies.

19. Whenever any member of the Board shall die, resign, permanently remove from the said province, take the benefit of any Act for the relief of persons unable to pay their creditors in full, or be absent from six consecutive meetings of the Board without the consent of the Board, the seat of such member shall thereupon become vacant.

Questions at Board
meetings to be decided
by open voting.

20. At all meetings of the Board the determination of all questions brought before the Board shall be decided by open voting by the majority present; and if there be an equal division of votes upon any question the Chairman, or any member acting as Chairman at such meeting, shall, in addition to his own vote as member of the Board, have a second or casting-vote.

21. Any

The Destitute Persons Act.—1881.

21. Any three members of the Board shall be competent to act in the execution of the powers vested in the Board: Provided that, in the event of the absence of the regular Chairman, the members of the Board then present may appoint a Chairman for the occasion.

PART II.
Quorum of Board.

22. The Board may, subject to the approval of the Governor, by order, appoint a superintendent of each asylum, school, or place under their control; and the Board may also, subject to the like approval, remove such superintendent.

Appointment of
superintendents.

23. The Board may also from time to time, by resolution of the Board, appoint such fit and proper persons to be teachers, officers, and servants, as may be allowed by the Governor, and may, by resolution of the Board, remove such teachers, officers, and servants, and appoint others in their stead.

Appointment of
officers.

24. The Board shall, subject to the regulations of the Public Service, have the administration of all funds voted by Parliament for the relief of the destitute poor, and all funds which may be given or left to them by benevolent persons, and shall have the care and management of asylums, institutions, or places for the reception and relief of destitute persons, and of all children born in any establishment under the control of the Board, and of all other illegitimate children nursed by any foster-mother outside of such establishments, with power also, as hereinafter is provided, to grant licences to any suitable persons to act as foster-mothers; and shall also have the control and supervision of schools, as hereinafter mentioned, for the education, employment, and training up of destitute, neglected, and convicted children, and the licensing out and apprenticing children as provided by this Act, and shall have the ordering of the persons and property of such destitute persons and children so long as they shall be inmates of any asylum, institution, place, or school so under the control of the Board.

Functions and duties
of Board.

25. The Board shall have a seal, and shall cause to be sealed or stamped therewith all orders and mandates made by them in pursuance of this Act, and all such orders and mandates, or copies thereof, purporting to be sealed or stamped with the seal of the Board, and to be signed by the Chairman of the Board, shall be received as evidence of the facts therein stated, and that the said orders and mandates were duly made by the Board, without any further proof thereof, unless the contrary be shown.

Board to have a seal.

26. The Governor, may from time to time appoint such persons as he may approve, to carry into effect the provisions of this Act in outlying districts of the said province, who shall be styled "representing officers;" and may remove such persons from time to time, and appoint others in their place or stead.

Representing officers.

27. The Superintendent of the Asylum and the representing and visiting officers, and all other officers and servants employed in the

Superintendent of
Asylum subject to
Chairman.

The Destitute Persons Act.—1881.

PART II.

the several institutions under the control of the Board, shall, in all things, be subject to the direction and control of the Chairman of the Board.

Board to make rules
and regulations.

28. The Board may from time to time make rules and regulations for the purposes hereinafter mentioned, and such rules and regulations, when approved by the Governor, shall have the force of law; and a copy of such rules and regulations, published in the *Government Gazette*, shall be received in evidence and judicially noticed, and shall, until the contrary be shown, be deemed sufficient evidence that such rules and regulations were duly made and approved, and are of force and effect—

- I. For the inquiry into and ascertaining the proper objects of relief:
- II. For the admission of persons into any asylum, being wayfarers, wanderers, and other casual poor:
- III. For the affording out of any asylum, by their officers, of temporary relief in cases of emergency or urgent necessity:
- IV. For the burial of destitute persons, and the remuneration therefor:
- V. For the maintenance of order, discipline, decency, health, and cleanliness amongst the inmates of any asylum, school, or place under their control:
- VI. For the infliction of punishment on offenders against the said rules and regulations, nevertheless subject to the provisions of this Act:
- VII. For obtaining orders for maintenance upon persons who are by law liable to support their destitute relatives, and for obtaining reimbursement of sums paid for relief afforded to indigent persons, and expenses incurred in connection with providing transport, medical assistance, and burials for such indigent persons, from persons liable to pay the same:
- VIII. For the employment of the permanent or casual inmates of any asylum, and for prescribing taskwork or other labor to be done by persons relieved in any asylum, and for separating into classes and keeping separate in any asylum the inmates thereof:
- IX. For the prosecution of offenders against this Act, or the rules and regulations made in pursuance thereof:
- X. For prescribing the forms of indentures of apprenticeship, and of licences for adoption of children, or placing children out for service, and for the assignment or transfer of any such indentures or licences respectively:
- XI. For the keeping records of the proceedings of the Board,
and

*The Destitute Persons Act.—1881.***PART II.**

and of the officers thereof, and accounts of the receipt and application of all moneys, distinguishing cases of emergency from relief ordered by the Board :

- xii. For prescribing the duties of the several officers of the Board, and for keeping proper records, books, accounts, and vouchers :
- xiii. For causing all children apprenticed or licensed to reside with any person to be duly visited by some person authorised by the Board at least once in every four months :
- xiv. For regulating the proceedings and prescribing the duties of representing and relieving officers :
- xv. For the employment and control of any woman who may be an inmate of the Lying-in Home or wards at any institution under the control of the Board, and for the better care and rearing of their infants, and of all infants placed out with foster parents, as provided for in Part iv. of this Act :

Provided that until any rules and regulations shall be made under the authority hereof, and in so far as such rules and regulations, when made, shall not repeal or vary the same, the rules and regulations made under the said "Destitute Persons Relief and Industrial and Reformatory Schools Act, 1872," and published in the *Government Gazette* of the fourteenth day of May, one thousand eight hundred and seventy-three, or any subsequent modifications or alterations of the said rules and regulations, shall continue in force, and shall be of the like effect as if the same had been made under the provisions of this Act: Provided that any such rules and regulations hereafter to be made shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then sitting ; or, if Parliament be not then sitting, within fourteen days after the commencement of the then next Session of Parliament.

29. It shall be the duty of the Board to determine the proper objects of relief, and the nature and amount thereof, to cause accurate minutes and accounts to be kept, and a summary or report of the receipts and expenditure of the Board to be laid before Parliament at least once in every year.

Board to determine objects of relief, and to keep accounts, &c.

30. The Board shall cause a record to be kept, showing full particulars of the age, date of reception, parentage, nationality, sex, period of detention, and religion so far as known, of all children and other inmates who shall be dealt with by the Board under this Act, and of all dispositions of and dealings with such children or inmates.

Record of children to be kept.

31. All relief given by the Board under the provisions of this Act to or on account of any wife, or to or on account of any child or children under the ages of sixteen or eighteen years respectively, as before named, shall be considered as given to the husband of such wife

Relief given to wife or children to be considered as given to husband, or father, or mother.

*The Destitute Persons Act.—1881.***PART II.**

wife, or to the father of such child or children, if he be alive, and if not, then to the mother, as the case may be: Provided that if it appear to the Board that the husband of any wife is out of the said province, or in custody of law, or is lunatic or idiot, all relief given to such wife or her child or children under the ages aforesaid, shall, notwithstanding her coverture, be given to such wife in the same manner and subject to the same conditions as if she were a widow; but nothing herein contained shall limit the liability of the husband or father, as the case may be, for such past relief.

Cost of past maintenance may be recovered.

32. In any case in which relief has been afforded to any person, or to the wife and child of any person, and such person, or the father, grandfather, mother, grandmother, husband, child, children, or grandchildren of such person shall at any time within six years thereafter be of sufficient ability to repay and reimburse the amount or cost of such relief, or part thereof, it shall be lawful for any Justices, upon the information or complaint of an officer of the Board, to inquire into the matter in a summary way, and if they shall be of opinion that such person, or the father, or other relative as aforesaid, is of sufficient ability to repay the whole or part of the amount or cost of such relief, they may order such person or father, or other relative as aforesaid, to pay to such officer such sum of money either in one sum or by instalments as in their judgment such person, father, or other relative as aforesaid can reasonably afford and ought to contribute towards the past relief of such person.

Onus of proof.

33. Upon any trial of any complaint made by or with the authority of the Board for the recovery from any relatives of any sum of money under this Act, the onus of proving that the person complained of is not a relative, or that such relative is not of sufficient means, or that any inmate is of sufficient means, shall lie upon the defendant, who shall be competent and compellable to give evidence touching the matter of such complaint: Provided, however, that this section shall not apply to any information laid under section 14.

Power to charge and sell lands and equitable interests.

34. If any such person, or father, or other relative against whom any order shall have been made shall be possessed of any estate or interest, whether legal or equitable, in any lands, whether freehold or leasehold, it shall be lawful for the Chairman of the Board to make application, in writing (such application to be accompanied by a copy of the said order, verified by the seal of the Board), to the Master of the Supreme Court requiring such master to register such order as hereinafter mentioned, and upon the receipt of such application and verified copy of such order as aforesaid, such master shall forthwith register such order as a judgment in the said Supreme Court as in an action wherein the said Chairman of the Board is plaintiff, and the person against whom such order shall have been made is defendant, and upon such registration the said Chairman of the Board as such plaintiff shall have all the rights and remedies of a judgment creditor in the said Supreme Court as regards the issue and levying of any writs of execution or orders for attachment, and shall be entitled to recover his costs of and incidental to any such application and judgment, and for all proceedings taken and had under

The Destitute Persons Act.—1881.

under such judgment, and interest thereon, irrespective of whether the amount for which such order shall have been entered as a judgment is under the sum of Twenty Pounds or over that sum.

PART II.

35. If any such person against whom such an order shall have been made is possessed of any land under the operation of the "Real Property Act of 1861," or any Act or Acts amending the same, it shall be lawful for the said Chairman of the Board, either in lieu of or concurrently with the procedure mentioned in the last preceding clause, to lodge with the Registrar-General a caveat against any dealings with the said lands, in which caveat the particulars of such order shall be set out as fully as may be, and thereupon the said Registrar-General shall forthwith register such caveat, and it shall not be lawful for the said Registrar-General to remove or discharge such caveat unless and until he shall be satisfied that all moneys due and owing under such order have been fully paid and satisfied to the Chairman of the Board for the time being, or unless he shall be ordered by the Supreme Court to remove such caveat.

Caveats.

36. In any case of an information under the four last preceding sections, the Chairman of the Board may give notice in writing to any banker or other person known or suspected to have the custody or control of or over any money or property of or belonging to the person sought to be made chargeable not to pay or hand over such money or property until such information shall have been heard and disposed of, and thereupon such property shall be thereby attached in the hands of such banker or other person as aforesaid; and he shall pay or hand over the same in accordance with any order which may be made by the Justices on the hearing of such information; and any banker or other person paying or handing over such money or property after receiving such notice as aforesaid, except in accordance with such order, shall be personally liable to make good the amount of money or value of the property so paid or handed over, and such amount or value may be recovered by the Chairman of the Board accordingly by action at law.

Board may attach moneys in hands of banker, &c.

37. The Board may manage, and demise for any term not exceeding three years, the lands of or to which any inmate is seized or entitled, and may make allowances and arrangements with all or any of the tenants or occupiers for the time being of the said lands, and accept surrenders of leases and tenancies, as fully and effectually as such inmate if of the full age of twenty-one years could do.

Board may manage and let estates of children or other inmates.

38. The Board may demand, sue for, collect, and receive, all the rents and profits which shall be due to any such inmate, and may give effectual receipts and discharges for such rents and profits or so much thereof as shall be received, and in case of non-payment of the same or any part thereof, in the names of the Chairman of the Board or in the name and on behalf of such inmate, may enter into and upon all or any of the lands in respect of which any rents shall be unpaid, and may distrain for the said rents and profits, and the costs and expenses of and incidental to the non-payment thereof; and

Board may collect moneys due to inmates.

*The Destitute Persons Act.—1881.***PART II.**

and the distress then and there found may dispose of in due course of law, and may take and use all lawful proceedings and means for recovering and receiving the said rents and profits, and for evicting and ejecting defaulting tenants and occupiers from all or any of the said lands, and determining the tenancy or occupation thereof, and for obtaining, recovering, and retaining possession of all or any of the lands held or occupied by such defaulters.

Board may bring actions.

39. The Board may, in the name of the Chairman of the Board, or in the name and on behalf of any such inmate, commence and prosecute at law and in equity all actions, suits, claims, demands, and proceedings, touching any land, estate, interest, or rights of any such inmate, or of his tenants therein or thereto, or touching any matter or thing whatsoever in which any such inmate or his real or personal estate or effects may be in any way interested, affected, or concerned.

Board may appoint agents.

40. The Board may appoint and remove at their pleasure any attorney or agent in respect of all or any of the matters aforesaid, upon such terms and for such remuneration as the said Board shall think fit, and may allow to such attorney or agent all costs, charges, and expenses lawfully incurred by him in executing the powers and trusts reposed in the Board by this Act.

Penalty for breach of rules.

41. Any person or inmate committing a breach of any of the rules or regulations hereinbefore referred to shall, upon conviction thereof by any Justices, forfeit and pay a penalty not exceeding Five Pounds, or be imprisoned, at the discretion of such Justices with or without hard labor, for any term not exceeding three calendar months.

Penalty for false pretences to obtain relief.

42. Any person who shall obtain or attempt to obtain from the Board or from any officer administering the funds thereof, any pecuniary or other relief or assistance, or any goods or chattels or other property, by way of gift or loan, by means of any false pretence; and any person in any institution under the control of the Board, who shall wilfully waste, spoil, or damage any of the wearing apparel, tools, implements, or utensils, or other property belonging to such institution shall, upon conviction thereof, be liable to imprisonment with hard labor for any term not exceeding six calendar months.

Penalty for fraudulent appropriation of property of asylum.

43. If any person who shall be entrusted with, or to whom shall be lent, by way of relief or assistance, any article of wearing apparel or bedding, or any tool, implement, or utensil, or any other property, goods, and chattels whatsoever the property of, or under the care or control of the Board, shall fraudently take or convert to his or her own use, any such property, or shall carry away any such property, such person, whether he or she shall or shall not determine the bailment, shall be guilty of larceny, and shall be liable, on conviction, to imprisonment for not more than six calendar months, with or without hard labor.

PART

The Destitute Persons Act.--1881.

PART III.

PART III.

AS TO INDUSTRIAL AND REFORMATORY SCHOOLS,
INCLUDING PLACING OUT THE CHILDREN
WITH FOSTER PARENTS AND BINDING THEIR
INMATES AS APPRENTICES.

44. It shall be lawful for the Governor to establish, for the purposes of this Act, industrial schools; and in every such school the males shall be kept separate and apart from the females.

Industrial schools to be established.

45. It shall be lawful for the Governor to establish, for the purposes of this Act, reformatory schools; and in every such school the males shall be kept separate and apart from the females.

Reformatory schools to be established.

46. Destitute children and neglected children may be received by the Board into any of the industrial schools, and whenever any destitute child, or neglected child, shall be so received into any industrial school, such child may be detained therein, and may be removed to any other industrial school, and be there detained until he or she shall attain the ages of sixteen or eighteen years respectively, as hereinbefore provided, unless in the meantime the father, or, if there be no father, the mother of such child, shall be desirous of removing such child from such school, and shall satisfy the Board that he or she is able to maintain such child, in which case the Board shall, except in the cases provided for by section 47, and except where the parent so desirous of removing any such child shall be a known or reputed prostitute, or a known or reputed thief or drunkard, or a person convicted of vagrancy, make an order directing such child to be discharged from such school, and given over to the care of such father or mother, as the case may be; and until such order shall be made, the superintendent, matron, or manager of any such school, shall be and are hereby authorised to detain any such destitute child, or neglected child, who has been so received into such school as aforesaid, and may justify such detention accordingly: Provided that if the father or mother of any such destitute child, or neglected child so detained as aforesaid, shall be dissatisfied with the refusal of the Board to make an order for the discharge of such child, he or she may apply to a Judge, who, on being satisfied by affidavit or otherwise that such father or mother is able to maintain such child, and is a proper person as regards character to have the charge of such child, may order that such child be discharged from such school, or be otherwise dealt with as he may in any such order direct.

Destitute and neglected children to be received into industrial schools.

47. If, upon the admission of any destitute child, or neglected child, into any industrial school, the father, or, if the father be dead or absent from the province, or in custody of the law, or a lunatic, the mother of such child shall surrender the care and custody of such child to the Board, and shall sign a consent that such child shall remain in such school, or in some other industrial school, or in charge of some suitable person, who, at the discretion of the Board under

Surrender of child.

*The Destitute Persons Act.—1881.***PART III.**

under the provisions of this Act, shall be selected for that purpose, if a boy, until he shall attain the age of sixteen years, or if a girl, then eighteen years, then and in such case no order shall be made for the discharge of such child before so attaining such age, without the written consent of the Board for that purpose being first obtained.

Destitute and neglected children may be taken before Justices.

48. Any constable finding a destitute child, or a neglected child, may immediately apprehend such child without any warrant, and forthwith take such child before any Justices, to be dealt with according to this Act.

Parents liable to contribute to support.

49. The grand-parent, parent, or step-parent of every inmate of any industrial or reformatory school shall (if of sufficient ability so to do) contribute to his or her support for the period during which such inmate shall be detained in any such school: Provided that such contribution shall not exceed Ten Shillings per week for the maintenance of such inmate, and shall be recoverable as provided in clauses 32, 33 and 34 of this Act.

Class of children to be sent to industrial schools.

50. Destitute children and neglected children only shall be sent to, or detained at, any industrial school: Provided always, that where any such child, in the opinion of the Justices, ought to be sent to a reformatory school, such Justices may, regard being had to the circumstances of the case, order such child to be sent to a reformatory school accordingly

Destitute or neglected children not to be detained after certain age.

51. No destitute child or neglected child shall be detained at any of the said industrial schools after he or she shall have attained the ages of sixteen or eighteen years respectively, as hereinbefore provided.

Class of children to be sent to reformatory schools.

52. Except as provided in clause 50, convicted children only shall be sent to or detained at any reformatory school: Provided always, that where any child has been convicted of any offence punishable by imprisonment, but has not been previously convicted of any offence so punishable, the Judge or Justices may order such child to be sent to an industrial school, if in their opinion such child ought to be so sent.

Convicted children not to be detained after certain ages.

53. No convicted child shall be detained at any reformatory school after he or she shall have attained the age of sixteen or eighteen years respectively, as hereinbefore provided.

Neglected children to be detained.

54. Whenever any child shall hereafter be brought before any Justices, and be charged with being a destitute child or a neglected child, the said Justices shall proceed to hear the matter of the said charge, and if the same shall be established to the satisfaction of the Justices, it shall be lawful for them to direct such child to be sent forthwith to any one of the said industrial or reformatory schools, to be there detained until he or she reaches the age or apparent

*The Destitute Persons Act.—1881.***PART III.**

apparent age of sixteen or eighteen years respectively, as hereinbefore provided, or for such shorter period (not being less than one year) as the Justices may think fit.

55. Whenever any child shall hereafter be convicted of any offence, either upon information or summary conviction, punishable by imprisonment, it shall be lawful for the Judge or the Justices by whom such child shall be so convicted, in addition to the sentence which may then and there be passed as a punishment for the said offence, to direct such child to be sent, at the expiration of such sentence, to any one of the reformatory schools, to be there detained until he or she reaches the age or apparent age of sixteen or eighteen years respectively, as hereinbefore provided, or for such shorter period (not being less than one year) as the Justices may think fit.

Convicted children to be detained.

56. The Justices before whom any child shall be brought upon the charge of being either a destitute child or a neglected child, or upon a charge of having committed some offence punishable by imprisonment shall, upon the hearing of such charge, and at the time of conviction of such offence, examine into the means and ability to maintain such child of the persons by this Act made liable for the maintenance thereof, and upon proof thereof such Justices shall make an order on such parents, relatives, or other persons for the maintenance of such child during the period of its detention in any industrial or reformatory school, such order to be enforced as is provided in clauses 32, 33 and 34 of this Act.

Justices to examine into ability of persons liable for maintenance of neglected, destitute, and convicted children.

57. If any child is or shall hereafter be imprisoned under sentence for an offence punishable by imprisonment, the keeper of the gaol wherein such child shall be imprisoned shall take such child before any Justices, and such Justices may, if they think fit, direct such child to be sent to and detained in any one of the reformatory schools, pursuant to this Act: Provided always, that no such child as last aforesaid shall be sent to or detained in any reformatory school unless the unexpired term of imprisonment of such child shall be at least six months, nor for any longer period than such unexpired term.

Children in gaols to be detained.

58. Whenever any child has been detained in any reformatory school during the period for which he was ordered to be detained, and the conduct of such child during such detention has been such as to merit his being sent to an industrial school, the superintendent of such reformatory school shall bring such child before any Justices, and thereupon such Justices may order such child to be sent to some one of the industrial schools, there to be maintained until such child shall attain the age of sixteen or eighteen years respectively, or for such shorter period as the Justices may think fit, and the Board or any such Justices may remove any inmate from any industrial school to any other industrial school, or from any reformatory school to any other reformatory school, under this Act.

Child may be sent to industrial school as reward for good conduct.

59. When

*The Destitute Persons Act.—1881.***PART III.**

Order not to form part
of judgment.

59. When the Judge or Justices shall direct any child to be detained under the provisions of this Act, such direction shall not be included in, or form any part of, the judgment and adjudication of such Judge or Justices, but shall be a distinct and collateral proceeding.

Mandate for deten-
tion.

60. Whenever any child shall be directed to be detained in any school established under this Act, the Judge or Justices shall issue a mandate in such one of the forms contained in the Schedule to this Act as shall be applicable to the case.

Mandate to be de-
livered with child to
superintendent, &c.

61. The mandate for detention in any school, or a duplicate thereof, shall be forwarded to the superintendent or matron of the school with the child, and shall be a sufficient warrant for the conveyance of the child thither, and the detention of such child there.

Mandate to be a de-
fence to actions.

62. In every action for anything done in obedience to any such mandate as aforesaid, it shall be sufficient for the defendant to justify under such mandate alone, without setting forth the previous proceedings, in like manner as any Sheriff can and may justify under any process issued out of the Supreme Court in any civil action, and proof of the matters alleged shall be sufficient evidence in support of such plea.

Mandate to be obeyed,
and to be authority
for, and evidence of,
detention.

63. Every mandate issued under this Act shall be executed and obeyed by the person to whom the same is directed and delivered, and the production thereof, with a statement annexed thereto, signed by the superintendent or matron of any industrial or reformatory school, that the child named in such mandate was duly received into, and is at the signing thereof detained in such school, or has been otherwise dealt with according to law, shall in all proceedings whatsoever be sufficient evidence of the facts by this Act required to be stated in such mandate, and of the subsequent detention and identity of the child named therein.

Power to discharge
child or extend term
of detention.

64. The Governor may order the release of any inmate from the industrial or reformatory school in which he or she may be detained, and he or she shall, upon the production of such order, be discharged accordingly, and may extend the term of detention specified in any mandate or order made or to be made until the child named therein shall have attained the age of sixteen years if a boy, or eighteen years if a girl.

Children may be put
out on certain con-
ditions.

65. Notwithstanding anything herein contained, it shall be lawful for the Board to place any inmate of any industrial or reformatory school to reside with the mother or other relative of such inmate, or with any other suitable person to be named in the licence hereinafter mentioned, who shall be willing to receive such inmate for adoption or service, and be qualified in the opinion of the Board to provide for and take care of such inmate, and to grant to such inmate a licence to reside with the person so to be named

*The Destitute Persons Act.—1881.***PART III.**

named therein as aforesaid, either for adoption or service, for any term not exceeding the term for which such child could be lawfully kept in such industrial or reformatory school; and it shall be lawful for the Board to require such inmate to return to the said school at any time during the said term, unless he or she shall have been previously discharged as aforesaid; and it shall be lawful for the Board to require any such person to whom such inmate may be indentured or licensed to return such inmate as aforesaid, at any time during the said term; and it shall be lawful for the Board to pay to such person for the care, clothing, and education of such child, until such child shall attain the age of thirteen years, such annual or other sum not exceeding Seven Shillings a week as may be allowed by the Governor; and any inmate having such licence who shall abscond from the person named therein during such term, or shall neglect or refuse to return to the said school at the expiration of the term for which such inmate shall be licensed to dwell with any such person, in case such term shall be less than the period for which such inmate was directed to be sent to such industrial or reformatory school, or when required to return as aforesaid, shall be held to have absconded from the said school: Provided always that no inmate of any reformatory school shall be so placed out before the expiration of one-third of the term of detention originally allotted.

66. At any time before the expiration of the order or mandate authorising the detention of such inmate in schools, the Board may bind the inmate of any industrial or reformatory school apprentice to such useful calling or occupation as shall be approved by the Board, for a period not exceeding five years; and such binding shall be as effectual as if such child were of full age and by indenture bound himself.

Board may apprentice children.

67. Indentures of apprenticeship, or licences for adoption or service, shall contain covenants, on the part of the master, parent, or foster-parent to whom such child shall be bound or placed out, with the Chairman of the Board for the providing such child with food, lodging, clothing, and other necessities proper for such child, having regard to the condition in life of the said master, parent, or foster-parent and child respectively, and for the due payment of the wages (if any) agreed for, and shall be in the form prescribed by the rules and regulations aforesaid, and shall be executed in duplicate by the Chairman of the Board, on behalf of the said child, and by the master respectively.

Form of indentures of apprenticeship.

68. The Board may provide in any indenture or licence that such proportion of the wages to become due to the child or inmate as may be fixed by the Board generally, or in each particular case, shall be deposited in such manner, and at such periodical times, by the master or foster-parent, in the Savings Bank of South Australia, on account of such child; and every such deposit shall be deemed and allowed as a payment to such child, but shall not be withdrawn by the child without the consent, in writing, of the Chairman of the Board

Wages may be deposited in Savings Bank.

*The Destitute Persons Act.—1881.***PART III.**

Board, until the expiration of the indentures of apprenticeship or licence respectively.

Wages due to inmates.

69. The wages or earnings due by any person to any inmate who may have been licensed out may be sued for and recovered by the Board, or any attorney or agent appointed by the Board for that purpose.

Indentures of apprenticeship may be assigned with consent of Board.

70. The master or foster-parent of any such child may, with the consent of the Board in writing, but not otherwise, assign such child to any fit and proper person; and every such assignment shall be in the form prescribed by the rules and regulations aforesaid, and shall be executed in duplicate by the old and new master or foster-parent respectively, and the consent of the Board shall be notified under the hand of the Chairman upon the said parts respectively, and one part, signed by the new master or foster-parent, shall be kept by the said Board.

Indentures to be void on death of master, but on application of widow, &c., fresh indentures may be entered into.

71. On the death of the master or foster-parent of any such child, the said indenture or licence shall cease and determine, unless within three months from such death the widow of such master or foster-parent, or the executor or administrator of such master or foster-parent, shall apply by writing to the said Board for a mandate directing that such child shall be bound for the residue of the term of the original indenture or licence to some fit and proper person, to be mentioned in such application, and the said Board may grant or refuse such application; and if the said Board shall grant such application, they shall issue a mandate accordingly, and thereupon the like indentures or licences shall be executed as in the case of an original apprenticeship under this Act, nevertheless, for the unexpired term only of the original indenture or licence.

On insolvency of master or his removal, indentures may be cancelled by Board.

72. In case the master or foster-parent of any such child shall become insolvent, or so far reduced in his circumstances as to be unable to maintain and employ such child, or shall remove from the said province, it shall be lawful for the said Board, on the application either of the master, or foster-parent, or child respectively, requesting them to discharge such child for some of the reasons aforesaid, to inquire into the matter of such allegations, and either to grant or refuse such application; and, if the said Board shall grant such application, they shall issue a mandate accordingly, and every such mandate shall release and discharge the said master or foster-parent and such child respectively from the said indenture of apprenticeship or licence and from every covenant and agreement therein contained.

Master to give notice to Board of his removal; and of death, illness, or absconding of apprentice.

73. Every master, or mistress, or foster-parent, to whom any child has been bound, assigned, or licensed, shall, immediately on his or her removal to some other city, town, township, district, or place than those in which such master resided when the indentures or licences were executed, give notice in writing to the said Board of such

The Destitute Persons Act.—1881.

PART III.

such removal or intended removal, and of the place where such master, or mistress, or foster-parent has removed or intends to remove, and so on as often as the said master, or mistress, or foster-parent shall so remove: And the said master, or mistress, or foster-parent shall in like manner give notice to the said Board immediately upon the absconding, serious illness, or death of any such child, and every master, or mistress, or foster-parent offending against this provision shall, on conviction before any Justices, be liable to forfeit and pay a fine for each offence not exceeding Ten Pounds.

Master offending to be liable to fine not exceeding £10.

74. No person or persons to whom such child or children shall be apprenticed, assigned, or licensed as aforesaid shall transfer any such apprentice or licensed child to another, or in any way discharge or dismiss from his or her service any such child, without the consent in writing of the Board, under the penalty of Ten Pounds.

No person to whom any child shall be apprenticed or assigned shall dismiss or discharge such child from his or her service without consent, under a penalty of £10.

75. Any person who shall ill treat, or who shall neglect to discharge his duty towards any child who is licensed out or apprenticed with such person, may be summoned to appear before two or more Justices; and, upon conviction, shall be fined by the said Justices any sum not exceeding Ten Pounds, or may be imprisoned for any term not exceeding two months, with or without hard labor; and such Justices may, if they see proper, discharge such child, by warrant and certificate under their hands and seals, from such apprenticeship or licence.

Justices may hear complaints made by apprentices against their masters or mistresses, and impose a fine not exceeding £10, or may discharge such apprentice, as they see fit.

76. Any Justices, upon application or complaint made by any master or foster-parent against any such child, touching or concerning any misdemeanor, miscarriage, or misbehaviour in such his or her service, may hear and determine the same in a summary way, and may either dismiss the information or punish the offender by commitment to the nearest industrial or reformatory school, according to the circumstances of the case; and such Justices may, in his or their discretion, and as the justice of the case may require, on the application of the master or foster-parent, either with or without such punishment, discharge such child from his or her apprenticeship or licence, in the like form and manner as hereinbefore directed.

Justices may also hear complaints against apprentices for misbehaviour, &c., and may punish the offender.

77. Where any Justices shall discharge an apprentice or licensed child from his or her apprenticeship, or licence, under the provisions of this Act, such Justices shall forthwith intimate their decision to the Board, who shall have power, if they think fit, to order the return of such child to the control of the Board, or otherwise further dispose of such child as to the said Board shall seem meet, subject nevertheless to the provisions of this Act.

Decision of Justices to be intimated to Board.

78. The Board, or some member thereof, or some person nominated by the Board, shall once at least in every four months visit all children placed out or apprenticed in order to ascertain whether all stipulations regarding such children have been fulfilled, and that the treatment and care of all such children are satisfactory; and for such

Board or other persons duly appointed to visit and report.

*The Destitute Persons Act.—1881.***PART III.**

such purposes every such master, or mistress, or foster-parent shall personally produce any such child on the request of such visitor, or show sufficient cause for his or her absence, and every such master, or mistress, or foster-parent failing to show sufficient cause for the non-production of such apprentice or child shall be liable to forfeit and pay a penalty not exceeding Ten Pounds.

Visitors.

79. All members of the Executive Council, all members of the Legislature, all Judges of Courts (whether of record or otherwise), and all Justices shall be entitled to visit every such school as aforesaid, and shall have admission to the same accordingly.

Ministers of religion to have access.

80. Subject to the regulations to be made as hereinbefore mentioned, all ministers of religion shall have admission to every industrial and reformatory school, and may give instruction on the days and at the times allotted by such regulations for the religious education of the inmates of their particular denominations respectively.

Visitors' book.

81. Every person who, by virtue of the provisions hereinbefore contained, is entitled to visit any such school as aforesaid, and every minister of religion may inscribe in a book (to be for that purpose provided and kept in such school by the superintendent or matron thereof) any remarks or observations which he may think fit to make touching or concerning such school, and the superintendent, matron, teachers, officers, servants, or inmates thereof, or any of them; and every such book shall be carefully preserved by every such superintendent or matron, and every superintendent or matron oblitterating any such remarks or observations, or destroying any such book, or any part thereof, shall, on conviction, be liable to a penalty not exceeding Ten Pounds.

Penalty for permitting escape.

82. If the superintendent or matron of any industrial or reformatory school, or any teacher, officer, or servant thereof, shall negligently or voluntarily permit any inmate thereof to escape therefrom, every such offender shall, on conviction thereof, forfeit and pay any sum not exceeding Twenty Pounds.

Punishment for infringing rules.

83. If any inmate of any industrial or reformatory school shall wilfully violate any of the rules or regulations hereby authorised to be made for the preservation of order, decency, health, or cleanliness of the inmates of any such schools, such inmate shall be brought before any Justices, who shall make inquiry as to the complaint made against such inmate; and upon proof that such inmate has wilfully violated any of the rules and regulations aforesaid, may order such inmate to be whipped in manner hereinafter provided: or in lieu of whipping, may order such inmate to be punished by being fed on bread and water alone for any period not exceeding seven days: Provided always that, in awarding such punishment, regard shall be had by the Justices to the age and apparent constitution of the inmate.

84. If

The Destitute Persons Act.—1881.

84. If any inmates of any industrial or reformatory school shall disobey any lawful order of the superintendent or matron of any such school, or violate or fail to observe any regulations or by-laws made under this Act, it shall be lawful for such superintendent or matron to summarily punish such inmate by placing him or her in close confinement in such school premises for any period not exceeding forty-eight hours.

PART III.

Punishment for disobedience.

85. In every case where the Justices shall order bread and water diet, such order shall be in writing, and shall comply with the provisions in the last preceding section.

Order to be in writing.

86. Where, pursuant to the provisions of this Act, the punishment of whipping is awarded by any Justices, the order, sentence, or conviction ordering such punishment shall specify the number of strokes to be inflicted; and, in the case of an offender whose age does not exceed fourteen years, the number of strokes shall not exceed twelve, and in all cases the instrument used shall be a birch rod or cane; and on the occasion of every such whipping there shall be present the superintendent or matron of the school, who shall sign in the record book the minute recording the particulars of such whipping.

Whipping.

87. If any inmate of any industrial or reformatory school shall abscond therefrom, or wilfully damage or destroy any property belonging to any such school, such inmate shall, on conviction thereof before any Justices, be liable, at the discretion of such Justices, to be whipped in manner hereinbefore provided, or to be sentenced to be fed on bread and water alone, as provided by section 83, and the Justices in their order shall comply with such section; and such inmate may, if he has absconded, be ordered by the said Justices to be sent back to the school, and to be there detained until he reaches the age of sixteen or eighteen years respectively, as hereinbefore provided, or for such shorter period as the Justices think fit.

Penalty for absconding.

88. Any parent, relative, or other person who shall directly or indirectly counsel or induce, by letter or otherwise, any inmate of any industrial or reformatory school to abscond or escape therefrom, or to break his apprenticeship indentures, and abscond from his master or foster-parent before such inmate shall have been regularly discharged, or before the expiration of such indentures or licence; or who shall aid or abet any such inmate in so absconding or escaping; or who, knowing any such inmate to have so absconded or escaped, shall harbor or conceal, or assist in concealing, such inmate, or prevent him or her from returning to such school or to his master or foster-parent; or shall, without having previously obtained a licence as provided in Part IV. of this Act, harbor or conceal any illegitimate child under the age of seven years; or shall aid or abet in any such harboring or concealment, shall, on conviction thereof, forfeit and pay any sum not exceeding Twenty Pounds, or, at the discretion of the Justices, be imprisoned for any term not exceeding two months, with or without hard labor.

Penalty for harboring inmates.

89. Every

*The Destitute Persons Act.—1881.***PART III.**

Officers to have privileges of constables.

89. Every officer of an industrial or reformatory school authorised by the Chairman of the Board, in writing under his hand and the seal of the Board, to take charge of any child ordered to be detained under this Act, for the purpose of conveying such child to or from any such school, or of bringing him or her back to such school, in case of his or her absconding or escaping therefrom, or refusal to return thereto, shall, for such purpose, and while engaged in such duty, have all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as such officer, as any police-constable or peace officer, duly appointed, has within his constablewick by common law or statute.

Penalty for communicating with persons detained.

90. Any person who, without the authority or permission of the said Board, or of the superintendent of the school, shall hold or attempt to hold any communication with any inmate of any industrial or reformatory school, and any person who shall enter any such school, or any building, yard, or ground belonging thereto, and shall not depart therefrom when required so to do by the superintendent, matron, or other officer or servant of such school, shall, on conviction, forfeit and pay any sum not exceeding Five Pounds.

Forms in Schedule deemed valid.

91. The several forms in the Schedule to this Act, or forms to the like effect, shall be deemed good, valid, and sufficient in law.

Place of inquiry.

92. Every inquiry directed by this Act to be held by any Justices touching any complaint against any inmate of any industrial or reformatory school for any offence committed by such inmate against the provisions of this Act, or any rules made hereunder, shall be held and inquired into at the establishment in which such inmate is resident; and the Board shall make an annual return to the Chief Secretary of all convictions made, and punishments inflicted thereunder.

PART IV.**PART IV.**

THE SUPERVISION OF ALL ILLEGITIMATE CHILDREN BORN IN ESTABLISHMENTS UNDER THE CONTROL OF THE DESTITUTE BOARD, AND OF ALL OTHER CHILDREN NURSED BY FOSTER-MOTHERS, WITH PROVISIONS AND POWERS FOR LICENSING ALL SUCH FOSTER-MOTHERS.

Agreement for service by mother of illegitimate child.

93. The Destitute Board may require any unmarried female who may apply for admission to the lying-in ward of any of the establishments under its control to enter into an agreement for service with, or sign an undertaking to the Board that such applicant will remain in the service of the Board, after the birth of her child, for any period not exceeding six months, if her child shall so long live, and in all things submit to the jurisdiction of the Board and the rules to be made under the provisions of this Act, so long as she shall remain in the service of the Board as aforesaid; and during such periods the Board may require any such mother to nurse her own

The Destitute Persons Act.—1881.

own child, and may require her to fulfil such other duties as, having due regard to her state of health, may be allotted to her.

PART IV.

94. The Destitute Board may, unless it be proved that other proper provision has been made, on the expiration of such period, retain the care and custody of any such illegitimate child, and its mother shall, if required by the Board, pay towards the support of her child a sum not exceeding Two Shillings and Sixpence each week so long as its care and custody are retained by the Board, and shall attend personally, if practicable, at the establishment of the Board where her child may be placed, once at least in every month upon duly appointed days, to visit her child.

Board may retain care of illegitimate children.

95. Unless it be proved to the satisfaction of the Board that the mother of such illegitimate child, or her friends, are in a position to maintain such child, the child shall be treated as a "neglected child," as provided for in this Act: Provided always, that if default be made by the mother in carrying out the requirements of the Board, the mother shall thenceforward be responsible for the care, maintenance, and safe-keeping of her child in the same manner as if this Act had not been passed.

Neglected child.

96. The Board may, for the purpose of identifying the father of any illegitimate child which may be born in any establishment under the control of the Board, require the mother of any such child to make a declaration respecting the paternity of such child before a Justice of the Peace.

Declaration as to paternity.

97. A copy of such declaration shall be forthwith transmitted by the Board to the person named in such declaration as the father of such illegitimate child, who shall be allowed, on making application in writing to the Board, to attend before the Board for the purpose of disproving the allegations contained in such declaration.

Copy of declaration to be forwarded.

98. The mother of any illegitimate child who shall wilfully make a false declaration before a Justice of the Peace respecting the paternity of her child shall be deemed guilty of perjury.

Penalty on false declaration.

99. The mother of any illegitimate child who, being required by the Board to do anything under this Act, shall neglect so to do, shall for every such offence, on conviction, forfeit and pay a sum not exceeding Twenty-five Pounds.

Penalty on disobedience.

100. The Board may grant licences to fit and proper persons, on payment of a sufficient fee, to be foster-mothers or wetnurses for any children, whether legitimate or illegitimate, other than illegitimate children in any establishment under the control of the Board, and may revoke such licences; and the Board may make regulations respecting the duties and conduct of such licensed foster-mothers or wetnurses, and for the due inspection and supervision of such licensed foster-mothers or wetnurses and the children under their charge.

Board may licence foster mothers.

101. Every

*The Destitute Persons Act.—1881.***PART IV.**

Penalty on unlicensed
foster-mothers.

101. Every person who, not being in an establishment under the control of the Board, and not being licensed by the Board, shall with or without fee or reward act as foster-mother or wetnurse to or take the sole care of any child, whether legitimate or illegitimate, and the mother or father of any such child who shall knowingly leave or place such child with any person not being a licensed foster-mother or wetnurse as aforesaid, shall for every such offence, on conviction, forfeit and pay a sum not exceeding Twenty Pounds, one-half of which shall be paid to the informer: Provided always that no information shall be laid for any such offence except by the Board or by some officer duly appointed and authorised by the Board on that behalf: Provided that nothing herein contained shall refer to children nursed in the house of their parents or by a wet-nurse, consequent upon a certificate from a duly qualified medical man.

PART V.**PART V.****PROTECTION TO OFFICERS, AND GENERAL MATTERS.**

Summary procedure.

102. Every proceeding under this Act for omissions, defaults, acts, or offences, to which any penalty is attached, and all applications for orders where no other method of proceeding is by this Act provided, shall be had and taken and may be heard and determined in a summary way by any Special Magistrate or two Justices, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders," or of any Act hereafter to be in force relating to the duties of Justices with respect to summary convictions and orders, and all convictions and orders may be enforced as in the said Ordinance, or in any other Act, is or may be provided.

Proceedings for
penalties, &c.

103. Any Justices at any time in a summary way may inquire into the disobedience or alleged disobedience of or non-compliance with any order made under the provisions of this Act, and may enforce compliance or punish the non-compliance with such order, either by the imprisonment (with or without hard labor) of the party offending for a period not exceeding six calendar months, unless the same shall be sooner complied with, or by the imposition of a fine of not exceeding Twenty Pounds.

Forms of proceedings.

104. Every information, conviction, mandate, or warrant, under this Act, shall be deemed valid and sufficient in which the offence is set forth in the words of this Act; and no conviction, mandate, or warrant shall be held void by reason of any defect therein: Provided it be alleged in such conviction, mandate, or warrant, that the party charged had been convicted of such offence.

Property may be laid
in the Destitute
Board.

105. In any information or complaint for any offence committed upon or in respect of any property, money, goods, chattels, or effects, under the management or control of the Board, or of any of the officers

The Destitute Persons Act.—1881.

PART V.

officers thereof, it shall be sufficient to state or allege that the property, money, goods, chattels, or effects, belong to, and any offence to have been done or committed with intent to injure or defraud, the Destitute Board, without any further or other name, addition, or description whatever.

106. Production of the *South Australian Government Gazette*, containing any Proclamation of any place as an industrial or reformatory school under this Act, or notifying the appointment of any person as a member of the said Destitute Board, or the appointment of any person as an officer under this Act, shall be conclusive evidence of the facts therein stated in any action, suit, or proceeding in any Court or Courts in the said province.

Government Gazette
to be conclusive evi-
dence of Proclamation
of schools, &c.

107. There shall be an appeal from any conviction by any Special Magistrate or Justices for any offence against this Act (except from any conviction or punishment inflicted under clause 83 of this Act), or from any order dismissing any information or complaint, or from any order made by Justices under this Act; which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No 6 of 1850, for appeals to Local Courts, or any Act hereafter to be in force regulating such appeals; but the Local Court of Adelaide aforesaid may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

Appeal to Adelaide
Local Court of Full
Jurisdiction.

108. The Local Court of Adelaide, upon the hearing of any appeal, may state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases, and the Supreme Court shall make order as to costs of any special case as to the said Court shall appear just; and any Justices, or the Local Court of Adelaide, shall make an order in respect to the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court; which order of the Justices or Local Court shall be expressed in manner provided for the enforcement of orders of Justices, under the said Ordinance No. 6 of 1850, or other act as aforesaid; and save as herein provided, no order or proceeding of any Special Magistrate or Justices, or of any Local Court, made under the authority of this Act, shall be appealed against, or removed by *certiorari* or otherwise, into the Supreme Court of the said province.

Local Court, upon
hearing of appeal,
may state special case.

109. All moneys received for penalties imposed for offences against this Act shall be paid to the Treasurer, on behalf of Her Majesty, Her heirs, and successors, for the public uses of the said province, and in support of the Government thereof.

Appropriation of
moneys.

110. Wherever in any Act reference is made to any of the Ordinances or Acts hereby repealed, the same shall be taken to mean and include this Act.

References in other
Acts to Acts hereby
repealed to mean
Act.

The Destitute Persons Act.—1881.

PART V.

Actions to be commenced within six calendar months.

111. If any action or suit be brought against any person for anything done in pursuance of this Act, the same shall be commenced within six calendar months next after the act complained of (except where herein otherwise provided for); and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and the defendant in any such action or suit may, at his election, plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and the plaintiff shall not recover in such action if tender of sufficient amends shall be made before action brought, or if, after action brought, the defendant shall pay into Court sufficient amends; but in such last-mentioned case the plaintiff shall recover his costs of suit up to time of payment into Court; and if a verdict shall be found for the defendant, or if the plaintiff shall be nonsuited or discontinue his action or suit after the defendant shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff, then the defendant shall recover double costs, and have such remedy for recovering the same as any defendant hath or may have in ordinary cases.

The Destitute Persons Act.—1881.

SCHEDULE REFERRED TO.

Mandate for Neglected Child to be sent to an Industrial School.

Whereas A.B. a boy [*or girl*] has been brought before the undersigned a Special Magistrate [*or two of Her Majesty's Justices of the Peace*], for that he [*or she*] the said A.B. was found begging, &c., *or* resided in a certain brothel, &c., *or* was at the time of the passing of "The Destitute Persons Act, 1881," an inmate, &c., *or* was on the day of 18 , convicted at the criminal sittings of, &c., *or* by and before the Local Court of, &c., and was on the day of [*date of establishment of reformatory school*] in prison in the gaol of Adelaide, under sentence in such conviction: And whereas we have directed the said A.B. to be sent to the Industrial School, at , for the term of thence next ensuing, *or* until the day of : These are to require you to whom this mandate is directed to take the said A.B. to the said Industrial School, and there to deliver him to the superintendent thereof, together with a duplicate of this mandate; and the said superintendent is hereby required to receive the said A.B. into the said school, there to be retained for the last-mentioned period, unless the said A.B. shall in the meantime be discharged in due course of law.

Given under my [*or our*] hand and seal at , this day of 18 .
To, &c.

Mandate for a Convicted Child to be sent to a Reformatory School.

Whereas at the Criminal Sittings of the Supreme Court [*or at the sittings of General Gaol Delivery*] holden at Adelaide, before me the undersigned, one of Her Majesty's Justices of the Supreme Court [*or at a sitting of the Local Court of Peace*], before the undersigned, a Special Magistrate and two Justices of the Peace or two of Her Majesty's Justices of the Peace], A.B. a boy [*or girl*] was convicted, and now here sentenced by the said Court to be imprisoned in the gaol for the space of and whereas I have directed the said A.B. to be sent, at the expiration of the said sentence, to the Reformatory School of for the term of [*or until the* day of]: These are to require you to whom this mandate is directed to take the said A.B. to the said Reformatory School, and there to deliver him to the superintendent thereof, together with a duplicate of this mandate; and the said superintendent is hereby required to receive the said A.B. into the said school, there to be detained for the last-mentioned period, unless the said A.B. shall in the meantime be discharged in due course of law.

Given under my hand and seal at , this day of 18 .
To, &c.

Licence for Service of an Inmate of a School.

Whereas A.B. is an inmate of the Industrial *or* Reformatory School at and whereas X.Y. of [*here state residence and occupation*] is willing to receive and take charge of the said A.B. for the term of upon receiving the sum of [*weekly, monthly, or annually*], from the fund at the disposal of the Destitute Board [*or without fee or reward*]: These are to authorise the said X.Y. to take the said A.B. from the said school to serve the said X.Y., and to be by him received, kept, maintained, clothed, and educated during the said term in accordance with "The Destitute Persons Act, 1881."

By order of the Destitute Board,
S.B., Chairman.

To Mr. X.Y.

[*Seal of Board.*]

The Destitute Persons Act.—1881.

I, the said X.Y., agree to receive and take charge of the said A.B. upon the terms of the above licence, in consideration of receiving [his or her] services, subject to the provisions of "The Destitute Persons Act, 1881," in all things. X.Y.

Licence for the Adoption of an Inmate of a School.

Whereas _____ is an inmate of the _____ School, at _____ and whereas _____ of* _____ is willing to adopt and take charge of the said _____ for the term of _____ years : These are to authorise the said _____ to take the said _____ from the said school, to be by h _____ received, kept, maintained, clothed, and educated during the said term in accordance with "The Destitute Persons Act, 1881 ;" the said _____ to furnish a report from the schoolmaster or schoolmistress of the school attendance and educational progress every six months.

By order of the Destitute Board,

To _____ Chairman.

Dated at Adelaide, this _____ day of _____ 18

I, the said _____, hereby agree to adopt and take charge of the said _____ and maintain, clothe, and educate _____ pursuant to the provisions of "The Destitute Persons Act, 1881," in all things, and to fulfil the terms of the above licence.

* State residence and occupation.

Surrender of Children to the care of the Destitute Board by the Parent.

To the Chairman of the Destitute Board.

Sir—I, _____ of _____ being destitute, do hereby make application for the admission of my child hereunder named and designated, to the Industrial School, at _____ there to be maintained and educated under the provisions of "The Destitute Persons Act, 1881 ;" and I, the above-named _____ do hereby voluntarily surrender _____ aged _____ years, being my child _____ to the care and custody of the Destitute Board, Adelaide, South Australia, subject to ail the provisions and regulations of "The Destitute Persons Relief Act, 1881."

The said child _____ being _____ I desire that _____ be educated in that faith.

Witness my hand this _____ day of _____ 18

Signature

Witness

Chairman.

Licence to act as Foster-mother or Wetnurse.

Whereas _____ of _____ hath paid to _____ the sum of £ _____ under the rules and regulations of the said Board, and hath applied to the said Board for a licence, under _____

The Destitute Persons Act.—1881.

under clause 99 of "The Destitute Persons Act, 1881," to be a licensed foster-mother
 or wetnurse: These are to authorise the said _____ to be a licensed
 foster-mother and wetnurse under the provisions of the said Act, from the
 day of _____ 18 _____

By order of the Destitute Board,

Chairman.

[Seal of Board.]

Declaration as to Paternity.

I _____ of _____ being the mother of a
 certain illegitimate [male or female] child, born in this establishment, on the
 day of _____ 18 _____, do hereby solemnly and sincerely declare that, to the best of
 my information and belief, _____ of _____ is the father of
 the said illegitimate child: And I make this declaration under the provisions of
 "The Destitute Persons Act, 1881," and subject to the provisions contained in the
 said Act, with respect to false declarations as to the paternity of the said child.

Declared at _____ this _____ day of _____ 18 _____

Before me,

J.P.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 211.

An Act to amend the Law relating to Building Societies.

[*Assented to, November 18th, 1881.*]

WHEREAS it is expedient to amend the law relating to building societies in manner hereinafter provided—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

Preamble.

1. This Act shall come into operation on a day to be fixed by the Governor, by Proclamation, to be published in the *Government Gazette*, and may be cited for all purposes as “The Building Societies Act, 1881.”

Commencement.

Short title.

2. Ordinance No. 12 of 1850, intituled “To Establish and Regulate Benefit Building Societies,” is hereby repealed; but this repeal shall not affect any building society constituted under the said Act until such society shall have obtained a certificate of incorporation under this Act; and this repeal shall not affect the past operation of the said Act, or the force or operation, validity or unvalidity of anything done or suffered, or any bond or security given, or any right, title, obligation, or liability accrued, or any proceedings taken thereunder, or under the rules of any society which has been constituted thereunder.

Repeal.

3. In this Act—

The term “building society” or “society” means any society having for its object, or one of its objects, the raising of a fund

Interpretation of terms.

The Building Societies Act.—1881.

fund by the payment, subscriptions, or contributions of its members and the application of such fund in assisting its members to obtain freehold or leasehold property, or in the making of loans or advances to its members or others, upon the security of freehold or leasehold property or transfer of partly paid up shares with the periodical repayment of principal and interest by instalments:

The term "committee of management" means the managing body of any society under this Act, whether called a "board of directors," "committee," or otherwise:

The term "existing society" means any building society existing at the time of the passing of this Act, the rules of which have been allowed or confirmed by the Governor under Ordinance No. 12 of 1850:

The term "terminating society" means a society which by its rules is to terminate at a fixed date, or when a certain event or result specified in its rules is arrived at:

The term "permanent society" means a society which has not by its rules any fixed date or certain event or result when it shall terminate:

The term "secretary" means the secretary, manager, managing director, or other principal executive officer of a society, by whatever name he may be called:

The term "investing member" means any member of a society who holds shares which participate in the profits of the society, whether such shares have been borrowed or advanced on or not.

The term "investing shares" means any shares which participate in the profits of the society, whether such shares have been borrowed or advanced on or not:

The term "Court" means the Supreme Court of the Province of South Australia:

The term "Registrar" means the Registrar-General of Deeds for the time being of the Province of South Australia, or his deputy, or any other person appointed for that purpose.

Establishment and
registration of new
societies.

4. Any number of persons, not less than ten, may establish a society under this Act, either terminating or permanent. Such persons shall transmit to the Registrar two copies of the rules agreed upon by them for the government of the society, signed by three of such persons and by the intended secretary; and the Registrar, if satisfied that the rules contain all the provisions set forth in section 13 of this Act, and that they are in conformity with this Act, shall return one copy with a certificate of registration to the intended secretary, and shall retain and register the other copy, and thereupon such society shall be deemed to be established and registered under this Act; and no society shall hereafter be formed or established except under this Act.

5. No

The Building Societies Act.—1881.

5. No society shall be registered under this Act by a name identical with that by which an existing society is already registered, or in the opinion of the Registrar so nearly resembling the same as to be calculated to deceive, unless such existing society is in course of being terminated or dissolved, and consents to such registration.

Prohibition of identity of names of societies.

6. Any existing society shall be entitled to be registered under this Act, and when so registered its rules shall, so far as the same are not contrary to any express provision of this Act, continue in force until altered or rescinded as hereinafter mentioned; but any of its rules which are contrary to any express provision of this Act shall, after such registration, cease to be of any force or validity save as to any transactions, matters, or things done prior to such registration.

Registration of existing societies.

7. No existing society shall be registered under this Act except by the authority of a general meeting of the society convened and held in accordance with its rules for the time being, and specially called for the purpose, and the Registrar may require a statutory declaration from the secretary, and such other evidence, if any, as he may think fit, that such authority was duly given.

Authority to register existing society.

8. Any existing society entitled to be registered under this Act and desirous of being so registered shall transmit to the Registrar two copies of its rules purporting to be duly allowed or confirmed under Ordinance No. 12 of 1850, authenticated by the statutory declaration of the secretary, and to which an impression of the common seal intended to be used shall be applied, and such other evidence, if any, as the Registrar may require; and the Registrar, if satisfied that such rules were duly allowed and confirmed under the said Act, and that the necessary authority for the registration of the society under this Act has been given, shall return one copy to the secretary with a certificate of registration, and shall retain and register such rules, and thereupon such society shall be deemed to be registered under this Act.

Mode of registration of existing society.

9. Upon the registration of any society under this Act the Registrar shall forthwith notify in the *Government Gazette*, in the form or to the effect in the First Schedule to this Act, that such society is registered, and thereupon the then present members of the society, together with such other persons as may from time to time become members of the society, shall be a body corporate by the name contained in its rules, capable forthwith of exercising all the functions of an incorporated society and having perpetual succession and a common seal. Such notice shall be conclusive evidence that all the requirements of this Act in respect of registration have been complied with.

Incorporation.

First Schedule.

10. A certificate in the form or to the effect in the Second Schedule to this Act under the hand of the Registrar for the time being (whose handwriting it shall not be necessary to prove, and who is hereby required to give such certificate to any person applying for the same on payment of One Shilling) shall be conclusive evidence that

Proof of incorporation. Second Schedule.

The Building Societies Act.—1881.

that the company named in such certificate is incorporated under this Act.

Common seal.

11. Upon the registration under this Act of any existing society, such society shall forthwith, by passing a new rule for the purpose, make provision for the custody and use of the common seal of the society, which shall in all cases bear the registered name thereof.

Property, &c., to vest on incorporation.

12. All rights of action, and other rights, and all estates and interest in real and personal estate whatsoever, belonging to, or held in trust for any existing society registered under this Act, shall, on the incorporation of the society under this Act, vest in the society, without any conveyance, transfer, or assignment whatsoever: Provided that in the case of freehold land under the provisions of "The Real Property Act of 1861," or any Act amending the same, it shall be necessary for an application to be made to the Registrar-General, under the seal of the society, applying to be registered as proprietor of such land, whereupon the Registrar-General, on payment of the transfer fee, shall register the society accordingly.

Rules to contain matters.

13. The rules of every society established under this Act shall set forth—

- i. The name of the society, and chief office or place of meeting for the business of the society:
- ii. The manner in which the stock or funds of the society are to be raised; the terms upon which the paid-up shares (if any) are to be issued and repaid, and whether preferential shares are to be issued, and if so, within what limits, if any; and whether the society intends to avail itself of the borrowing powers contained in this Act, and if so within what limits, not exceeding the limits prescribed by this Act:
- iii. The purposes to which the funds of the society are to be applied, and the manner in which they are to be invested:
- iv. The terms upon which shares may be withdrawn, and upon which mortgages may be redeemed:
- v. The manner of altering and rescinding the rules of the society and of making additional rules:
- vi. The duties and powers of and manner of appointing, remunerating, and removing the committee of management, auditors, and other officers:
- vii. The manner of calling general and special meetings of the members, the quorum necessary to constitute such meetings, and the mode of voting and number of votes to be given by each member at such meetings:
- viii. The mode of drawing and signing cheques, drafts, bills of exchange,

The Building Societies Act.—1881.

exchange, promissory notes, and other negotiable instruments for and on behalf of the society:

- ix. The species of security to be given by any paid officer of the society having the receipt or charge of any money belonging to the society:
- x. Provision for an annual or more frequent audit of the accounts, and inspection by the auditors of the mortgages and other securities belonging to the society:
- xi. Whether disputes between the society and any of its members, or any person claiming by or through any member, or under the rules, shall be settled by reference to arbitration or how otherwise:
- xii. Provision for the device, custody, and use of the seal of the society, which shall in all cases bear the registered name thereof:
- xiii. Provision for the custody of the mortgage deeds and other securities belonging to the society:
- xiv. Provision for the payment of all funds belonging to the society to the credit of the society at some incorporated or chartered bank in South Australia:
- xv. The fines and forfeitures to be imposed on members of the society:
- xvi. The manner in which the society, whether terminating or permanent, shall be terminated or dissolved.

14. Any society, if so provided for by its rules, may receive from any member any sum of money by way of bonus on any share or shares for the privilege of receiving the amount of the same in advance prior to the same being realised, and also any interest for the share or shares the amount of which may be so received, or any part thereof.

Society may receive bonus.

15. Any society under this Act may, in a schedule to its rules, prescribe the forms of conveyance, mortgage, transfer, agreement, bond, security, for deposit or loan, or other instrument necessary for carrying its purposes into execution.

Forms of conveyance, &c., may be prescribed.

16. Any existing society registered under this Act may alter or rescind any of its rules, or make any additional rule in manner prescribed by its rules, or if no manner be so prescribed, then by the vote of two-thirds of the members present at a general meeting of the society, convened and held in accordance with its rules for the time being, and specially called for the purpose by notice of seven days at the least, specifying the proposed alteration, rescission, or addition.

Existing society may alter rules.

17. Every society under this Act altering or rescinding any rule, or making an additional rule, shall forward to the Registrar two copies

Alteration of rules to be registered.

The Building Societies Act.—1881.

copies of every resolution for rescission of a rule, and of every alteration of or addition to its rules, signed by three members and the secretary, and if the Registrar is satisfied that such alteration, addition, or rescission is in conformity with this Act, he shall register one of such copies, and return the other to the secretary with a certificate of registration, and no such rescission, alteration, or addition shall be of any force or validity until so registered.

Copy rules, &c., to be supplied.

18. Every society under this Act shall supply to any person requiring the same a complete printed copy of its rules for the time being in force, with a printed copy of its certificate of incorporation appended thereto, and shall be entitled to charge therefor a sum not exceeding One Shilling.

Rules binding on members.

19. The rules of a society under this Act shall be binding on the several members and officers of the society, and on all persons claiming on account of a member, or under the rules, all of whom shall be deemed and taken to have full notice thereof, and shall not have power to question or impugn the legality or validity thereof.

Change of name.

20. A society under this Act may change its name by resolution of three-fourths of the members present at a meeting called for the purpose, provided that the new name is not identical with that of any society previously registered and still subsisting, or in the opinion of the Registrar so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved, and consents to such registration. Notice of the change of name shall be sent to the Registrar and registered by him, and he shall give a certificate of registration within seven days from the receipt of such notice. Such change of name shall not affect any right or obligation of the society, or of any member thereof, or other person concerned.

Married women and minors.

21. Married women and minors may become investing members in any society under this Act, and their receipts, notwithstanding coverture or infancy, shall be sufficient discharges to the society for all moneys paid to any such married woman or minor, and the share or interest of any such married woman, to the extent of not more than Six Shillings weekly, may, if she shall so direct at the time of becoming such member, be held for her sole and separate use, independent of the debts or control of any husband.

Joint holders and corporations.

22. Two or more persons jointly, or any corporation or incorporated company, may hold shares in any society under this Act.

Liability of members.

23. The liability of any member of a society under this Act in respect of any share upon which no advance has been made, shall be limited to the amount actually paid, or in arrear on such share, and profits declared or accumulated thereon, and in respect of any share upon which an advance has been made, shall be limited to the amount payable thereon under any mortgage or other security, or under the rules of the society.

24. Any

The Building Societies Act.—1881.

24. Any society under this Act may employ its funds for such of the following purposes as are provided for in its rules: To make advances to members of the society upon security of their shares—to make advances to members and other persons, and to corporate bodies, upon the security of freehold or leasehold estate by way of mortgage, and the society may accept the security of other property by way of collateral security: Provided that any land to which any society may become absolutely entitled by forfeiture or by surrender or other extinguishment of the rights of redemption shall, as soon afterwards as may be conveniently advantageous, be sold or converted into money.

Employment of funds.

25. Any society under this Act may from time to time when and as provided in its rules raise funds by the issue of shares of one or more denominations, either paid up in full or to be paid by periodical or other subscriptions, and with or without accumulating interest, and may repay such funds at such time as is provided in the rules of the society.

Issue of shares.

26. Any society under this Act may purchase, build, hire, or take upon lease any building for conducting its business, and may adapt and furnish the same, and may purchase or hold upon lease any land for the purpose only of erecting thereon a building for conducting the business of the society, and may sell, exchange, or let such building, or any part thereof.

Business premises.

27. Any society under this Act may obtain bank overdrafts or receive deposits or loans, at interest, from the members or other persons, or from corporate bodies, joint stock companies, or from any other building or friendly society, to be applied to the purposes of the society, provided that the total amount received on deposit or loan and not repaid by any society, in the case of a permanent society, shall not at any time exceed two-thirds of the amount for the time being secured to the society by mortgages from its members, or in the case of a terminating society shall not exceed twelve months' income on the shares for the time being in force. Any deposits with or loans to an existing society made before its registration under this Act in accordance with its certified rules, are hereby declared to be valid and binding on the society although such deposits or loans may exceed the limit aforesaid, but all such deposits and loans shall be taken into account in determining the amount which any such society may legally receive on deposit or loan after being registered under this Act; and no further deposits or loans shall be received by any society except within the limits provided by this section. Any member or other person, corporate body, joint-stock company, or other building or friendly society depositing or lending money with or to any society under this Act shall not be bound to see to the application thereof, or that the society has not exceeded its borrowing limit.

Deposits and loans.

28. Every deposit-book, or acknowledgment, or security of any kind, given for a deposit or loan by a society shall have printed

Acknowledgments
for loans or deposits
to bear copies of
secs. 23, 27, and 28.
or

The Building Societies Act.—1881.

or written thereon the whole of the twenty-third, twenty-seventh, and twenty-eighth sections of this Act.

Purchaser, &c., not bound to see to application of purchase money.

29. No member of any society under this Act, nor any purchaser of any land from any such society, shall be obliged to inquire into the application of the consideration money mentioned in any conveyance or reconveyance, receipt, or statutory release, or be answerable or accountable for the misapplication, non-application, or loss thereof.

Investment of funds.

30. Any society under this Act may, from time to time, unless its rules otherwise direct, invest any portion of its funds not immediately required for its purpose in the public funds, or in or upon any Government debentures, stock, or securities, or in or upon any debentures, stock, or securities, payment of the interest on which is guaranteed by authority of Parliament; but no society shall invest its funds, or any part thereof, in the Savings Bank of South Australia.

Paid officers to give security.

31. Every paid officer of a society under this Act, having the receipt or charge of any money belonging to the society, shall give such security as the rules of the society direct, in such sum as the committee of management require, for rendering a just and true account of all moneys received and paid by him on account of the society, and for payment of all sums of money due from him to the society, at such times as its rules appoint or the committee of management may require.

Paid officers to account and deliver up books, &c., on demand.

32. Every paid officer of a society under this Act, his executors or administrators, shall, upon demand made or notice in writing given or left at his last or usual place of residence, give in to the committee of management an account of all moneys received by him from or on account of the society to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all the moneys remaining in his or their hands, and deliver all securities and effects, books, papers, and property of the society in his or their hands or custody to such person as the committee of management shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to deliver such securities and effects, books, papers, and property in manner aforesaid, the society may sue upon the security given by such officer, or may apply to the Court by motion either upon notice or *ex parte* as the Court may think fit, and the Court may proceed thereupon in a summary way and make such order thereon, and as to the cost of such application as to the Court in its discretion shall seem just, which order shall be final and conclusive.

Society to have first claim on assets of officer dying, becoming insolvent, &c.

33. If any person appointed to any office and intrusted with the keeping of accounts, or having in his hands or possession, by virtue of his said office or appointment, any moneys or effects belonging to such society, or any deeds or securities relating to the same, shall die
or

The Building Societies Act.—1881.

or become insolvent, or have any attachment, or execution, or other process issued, or action or proceedings commenced against his lands, goods, chattels, or effects, or property or estate, or make any assignment, disposition, or other conveyance thereof, for the benefit of his creditors, his heirs, executors, administrators, or assigns, or other persons having legal right, or the Sheriff or other officer executing such process, or the party using such action or proceedings, shall, within twenty-one days after demand, in writing, by order of such society, or committee thereof, or the major part of them, assembled at any meeting thereof, deliver and pay over all moneys and other things belonging to such society to such person as such society or committee shall appoint, and shall pay out of the estates, assets, or effects of such person all sums of money remaining due which the said person received by virtue of his said office or appointment before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid, or which may be recoverable under the same, is paid over to the party issuing such process or using such proceedings, and all such assets, lands, goods, chattels, property, estates, and effects shall be bound to the payment and discharge thereof accordingly.

34. Contracts on behalf of any society under this Act may be made, varied, or discharged as follows, viz.— Contracts.

Any contract which, if made between private persons, would be by law required to be in writing under seal, may be made, varied, or discharged, in the name and on behalf of the society in writing, under the common seal of the society :

Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of society in writing, signed by any person acting under the express or implied authority of the society :

Any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made, varied, or discharged, by parol, in the name and on behalf of the society, by any person acting under the express or implied authority of the society.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the society and all other parties thereto, their heirs, executors, and administrator, as the case may be.

35. The secretary of every society under this Act shall, once in every year at least, prepare a general statement of its funds and effects, liabilities and assets, showing the amounts due to the holders of the various classes of shares respectively to depositors and creditors, and also the balance due or outstanding on its mortgage and other securities (not including prospective interest), and the amount invested Annual account.

The Building Societies Act.—1881.

vested in other securities, and also an account or statement of receipts and expenditure from the last preceding similar statement, together with a statement of profit and loss, and every such account and statement shall be attested by the auditors to whom the mortgage deeds and other securities belonging to the society shall be produced, and such account and statement shall be countersigned by the secretary and published in the *Government Gazette* and in one newspaper circulating in the locality in which the chief office of the society is situate, and every member, depositor, and creditor shall be entitled, on application therefor to the secretary, to receive from the society a copy of such account and statement, and a copy thereof shall be sent to the Registrar within fourteen days after the annual or other general meeting at which it is presented, and another copy thereof shall be suspended in a conspicuous place in the chief office of the society, and be kept so suspended until the suspension in like manner of the next succeeding similar account; and every such account or statement shall be in the forms prescribed by the Fourth Schedule hereto, or to the like effect.

Society to furnish
accounts when
requested by
Attorney-General.

36. Every society shall, at such time and in such form and manner, and to such persons as may from time to time be appointed by the Honorable the Attorney-General for the time being, furnish all such just and true accounts, reports, statistical tables, and statements as he may deem requisite to elucidate the state and proceedings of such society, or the manner in which the purposes of such society and the provisions of this Act have been carried into effect.

Disputes.

37. Every dispute between any member of any society under this Act, or any person claiming through or under such member and the society or any officer thereof, shall be decided in the manner directed by its rules, and the decision so made shall be binding and conclusive on all parties, and shall be final to all intents and purposes, and shall not be subject to appeal, and shall not be removed or removable into any Court of Law, or restrained or restrainable by the injunction of any Court.

Termination or dis-
solution of society.

38. A society under this Act may terminate or be dissolved—

- i. Upon the happening of any event declared by its rules to be the termination of the society :
- ii. By dissolution in manner prescribed by its rules :
- iii. In cases where no manner is prescribed by its rules, by dissolution with the consent of three-fourths of the investing members, holding not less than two-thirds in value of the investing shares in the society then current, testified by their signatures to the instrument of dissolution. The instrument of dissolution shall set forth—

(a.) The liabilities and assets of the society in detail :

(b.) The number of members and the amount standing to their credit in the books of the society :

(c.) The

The Building Societies Act.—1881.

(c.) The claims of depositors and other creditors, and provision to be made for their payment:

(d.) The intended appropriation or division of the funds and property of the society:

(e.) The names of one or more persons to be appointed trustees for the special purpose of winding up the society, and their remuneration:

Alterations in the instrument of dissolution may be made with the like consent testified in the same manner. The instrument of dissolution, and all alterations therein, shall, when signed by the required number of members, be transmitted to the Registrar with a statutory declaration by the secretary, verifying the signatures thereto, and that it is signed by the required number of members, and shall thereupon be registered by the Registrar, and shall be binding upon all the members of the society:

iv. By winding-up by the Court, if the Court shall so order on the petition of any member, authorised by three-fourths of of the investing members, holding not less than two-thirds in value of the investing shares in the society then current, present at a general meeting of the society specially called for the purpose, to present the same on behalf of the society, or on the petition of any judgment creditor for not less than One Hundred Pounds, but not otherwise. General rules or orders for regulating the proceedings of the Court in relation to the winding up of societies under this Act may be from time to time made by any three Judges of the Court. In the absence of any such rules or orders the rules or orders for the time being regulating the winding up of companies under "The Companies Act of 1864" shall apply so far as applicable:

Notice of the commencement and termination of every dissolution or winding up shall be sent to the Registrar, and registered by him.

39. Two or more societies under this Act may unite and become one society with or without a dissolution or division of the funds of such societies or either of them, or a society under this Act may transfer its engagements to any other society under this Act, upon such terms as shall be agreed upon by three-fourths of the investing members (holding not less than two-thirds in value of the investing shares then current) of each of such societies present at general meetings respectively convened for the purpose; but no such union or transfer shall prejudice any right of any creditor of either society. Notice of every such union or transfer shall be sent to the Registrar, and registered by him.

Societies may unite or transfer engagements.

40. When all moneys intended to be secured by any mortgage or further charge given to a society under this Act have been fully paid

Receipt to operate as reconveyance.

or

*The Building Societies Act.—1881.***Third Schedule.**

or discharged, the society may endorse upon or annex to such mortgage or further charge a receipt under the seal of the society, in the form specified in the Third Schedule to this Act, and such receipt shall vacate the mortgage or further charge and debt, and also all further charges relating to the same land dated subsequently to the mortgage or further charge on or to which such receipt shall be endorsed or annexed and prior to the date of the receipt, and vest the estate of and in the property therein comprised in the person for the time being entitled to the equity of redemption, without any reconveyance or re-assignment whatever, and so that the person for the time being entitled to the equity of redemption in cases where he was the original mortgagor of the property shall hold the property to the same uses and upon the same trusts so far as they have not been varied or altered as he held the property before mortgaging, and in cases where the person for the time being entitled to the equity of redemption is not the original mortgagor of the property shall hold the property to the same uses and upon the same trusts as he held the equitable estate.

Administration may
be dispensed with
in certain cases.

41. If any member of, or depositor with, a society under this Act, having in the funds thereof a sum of money not exceeding One Hundred Pounds, die intestate, or if any person entitled to the equity of redemption of any property mortgaged to any society under this Act die intestate, and upon the sale of the mortgaged premises any money not exceeding One Hundred Pounds remains in the hands of the society after paying the amount due to the society, and the costs and expenses of sale, then, and in either of such cases, such money may be paid to any person who shall appear to the society to be entitled to obtain letters of administration of the estate of such deceased member, depositor, or person, as aforesaid, without his taking out letters of administration, upon such person giving such security, and upon such evidence as the committee of management shall consider satisfactory of such death and intestacy, and that the person so claiming is entitled as aforesaid; and whenever the society has paid any sum of money not exceeding One Hundred Pounds, under the provision aforesaid, the receipt of the person to whom the same has been paid shall be a valid and effectual discharge to the society for the money so paid, but nevertheless the person who has received the same shall be liable to account to the next of kin, or personal representative of such deceased member, depositor, or person, as aforesaid, for the amount so received.

Penalties for breach
of this Act.

42. If any building society, or any persons representing themselves to be a society under this Act, commence business without first obtaining a certificate of incorporation under this Act, or if any society under this Act makes default in forwarding to the Registrar any returns or information by this Act required, or makes a return wilfully false in any respect, the committee of management, secretary, and every other officer of such society, or pretended society, shall be liable for every day business is carried on, or for every such default or false return, upon summary conviction before a
Special

The Building Societies Act.—1881.

Special Magistrate or two Justices, at the complaint of the Registrar, to a penalty not exceeding Five Pounds. If any society under this Act receives loans or deposits in excess of the limits prescribed by this Act, every member of the committee of management of such society shall be personally liable for the amount so received in excess.

43. If any person whosoever, by false representation or imposition, obtains possession of any moneys, securities, books, papers, or other effects of a society under this Act, or, having the same in his possession, withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society, and authorised by this Act, he shall be liable on summary conviction to a penalty not exceeding Twenty Pounds, with costs not exceeding Twenty Shillings, and to be ordered to deliver up to the society, or to any person named in the order, all such moneys, securities, books, papers, or other effects of the society, or to repay the amount of money applied improperly, and in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty and costs, to be imprisoned, with or without hard labor, for any time not exceeding three months; but nothing herein contained shall prevent any such person from being prosecuted under any law now or hereafter to be in force, if a conviction has not been previously obtained against him for the same offence under the provisions of this Act. Offences.

44. The provisions of the Act No. 9 of 1862 shall not be applicable to any chairman, or any presiding member of any society who shall offer for sale, or sell, any share of any society to or amongst the members thereof, at a meeting being held according to the rules of such society. Auctioneers Act not to apply.

45. Any person may inspect the documents kept by the Registrar relating to societies under this Act, and may obtain a copy or extract of any such document, or any part thereof, on payment of such fee as the Governor in Council may direct. Inspection, &c., of documents.

46. The Governor may from time to time make regulations respecting the fees (if any) to be paid for the registration and inspection of documents under this Act, and generally for carrying this Act into effect. Regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES.

The Building Societies Act.—1881.

SCHEDULES.

FIRST SCHEDULE.

“The Building Societies Act, 1881.”

Notice is hereby given, that a Building Society called “The Building
Society” is duly registered under the provisions of the above Act.

Dated this day of 188.

Registrar of Building Societies.

SECOND SCHEDULE.

This is to certify that [*name of society*] was on the day
of 18 , duly incorporated under the provisions of “The
Building Societies Act, 1881.”

Given under my hand at , in the Province of South Australia,
this day of , one thousand eight hundred

Registrar of Building Societies.

THIRD SCHEDULE.

[*Name of society*] hereby acknowledges to have received the sum of
 in full satisfaction and discharge of all moneys owing
on the security of the land comprised by the within indenture.

Dated this day of one thousand eight hundred

As witness the seal of the said society.

FOURTH

FOURTH SCHEDULE.

Building Society for the [year, half-year, or quarter] ending 188

We, the undersigned, being auditors of the society, and compared the same with the above

Building Society, do hereby certify that we have examined the books and vouchers of this and expenditure, and that the same is correct.

Auditors.

Building Society on the day of

We, the undersigned, being the auditors of the said society, and compared the same with the books :

Building Society, do hereby certify that we have examined the securities held by the said society, and that the above statement of assets and liabilities is correct.

Auditors.

Profit

Profit and Loss Account for [year, half-year, or quarter] ending 188 .

[illegible]

The directors have to inform the shareholders that the profits will allow of a division of £ to the credit of profit and loss.

<i>Profit on Shares for Half-year.</i>	<i>Total Profits.</i>
<i>£ s. d.</i>	<i>£ s. d.</i>
Shares 6½ years old.....	Shares at
" " 6	" "
" " 5½	" "
" " 5	" "
" " 4½	" "
" " 4	" "
" " 3½	" "
" " 3	" "
" " 2½	" "
" " 2	" "
" " 1½	" "
" " 1	" "
" 6 months	not entitled
" not entitled	

Chairman.

Secretary.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 212.

An Act to authorise the Establishment of Manufacturing
Districts, and for other purposes.

[*Assented to, November 18th, 1881.*]

WHEREAS it is expedient to make provision for the Establish- Preamble.
ment of Manufacturing Districts—Be it therefore Enacted
by the Governor of the Province of South Australia, with the
advice and consent of the Legislative Council and House of Assembly
of the said province, in this present Parliament assembled, as follows :

1. This Act shall be called, and may be cited as, “The Manufac- Short title.
turing Districts Act.”

2. For the purpose of assessing the compensation to be paid to Definitions.
the persons, and in the cases hereinafter set out, the Ordinance No.
6 of 1847 shall be read as part of this Act, and the words “pro-
moters of the undertaking” in the said Act, No. 6 of 1847, shall
include all persons from whom compensation is recoverable under
this Act; and the expressions “the works” and “the undertaking”
in that Ordinance shall include everything done under this Act for
which compensation can be claimed. The word “manufacture”
shall, for the purposes of this Act, include every business and
process as well as every manufacture which the Governor shall by
Proclamation direct to be included within its meaning.

3. Ratepayers of any corporate city or town, or of a district Procedure to obtain
constituted or being a district under “The District Councils Act, establishment of a
1876,” desiring the establishment, or an alteration of the boundaries Manufacturing Dis-
of a Manufacturing District within or co-extensive with the limits trict.
of

The Manufacturing Districts Act.—1881.

of such corporate city, or town, or of such district under the "District Councils Act, 1876," may, by petition addressed and presented to the Governor, pray him to establish in such corporate city or town, a Manufacturing District, or to alter the boundaries thereof, or to add to the manufactures to be carried on in any existing Manufacturing District established under this Act.

Householders desiring the establishment, or an alteration of the boundaries of a Manufacturing District in a place other than a corporate city or town, or an addition to the manufactures authorised to be carried on therein, or than a district constituted, or being a district under "The District Councils Act, 1876," and dwelling in houses situated within the boundaries of the proposed or existing Manufacturing District may, by petition addressed and presented to the Governor, pray him to establish a Manufacturing District in such place, or to alter the boundaries thereof, or to add to the manufactures to be carried on in any existing Manufacturing District.

Whenever there is not any inhabited house situated within the boundaries of a proposed or existing Manufacturing District, any person may by petition, signed by himself, and addressed and presented to the Governor, pray him to establish a Manufacturing District within such boundaries or to alter such boundaries, or to add to the manufactures to be carried on in any existing Manufacturing District.

Contents and signatures of petitions.

4. In every petition praying the establishment of a Manufacturing District shall be specified the proposed boundaries thereof, the manufactures which it shall be lawful to carry on within it, and the laws, orders, regulations, and by-laws, exemption from which is sought.

In every petition praying an alteration of the boundaries of a Manufacturing District shall be specified the desired alterations; the boundaries of the district, or additions to the manufactures to be carried on in such district, after the desired alterations or additions shall have been effected; and the reasons why the alterations are desired.

In every petition presented under this Act shall also be specified all other particulars which the Governor shall, by order or regulation, require or direct to be stated therein, and each petition shall contain a prayer specifying the relief which the petitioners wish to obtain.

Signature of petitions.

Every petition by ratepayers shall be signed by not less than three-fourths of the ratepayers of the corporate city, or town, or of the district under "The District Councils Act, 1876," named in the petition, and every petition by householders shall be signed by not less than three-fourths of the householders dwelling in houses situated within the boundaries of the proposed or existing Manufacturing District, and if there is not any inhabited house situated within such boundaries, the signature of the petitioner shall suffice.

5. No

The Manufacturing Districts Act.—1881.

5. No part of the relief prayed for in such petition shall be granted until one week after the petition shall have been published by the petitioners for three successive weeks in the *Government Gazette*, and shall also during such three weeks have been published by them in such other newspapers (if any) and so often as the Governor may direct, and shall also have been laid before both Houses of Parliament for one month after the presenting thereof, if Parliament be then sitting, or if not, within one month after the commencement of the then ensuing Session, and if an address be presented to the Governor by either House of Parliament within such month, praying that such petition may be refused, the Governor shall thereupon refuse the same. The first publication in the *Government Gazette* of each such petition shall take place not later than fourteen days from the date of the presentation thereof to the Governor.

Relief not to be granted until after the publication of the petition.

6. Any person may, by memorial addressed and presented to the Governor not later than one week after the third successive publication in the *Government Gazette* of any such petition, show cause why some or all of the relief prayed for it should not be granted. In each such memorial shall be specified the objections to the granting of the relief prayed for, or of such part thereof as the memorialists object to, the grounds on which the objections are based, and all other particulars which the Governor may by order or regulation require or direct to be stated therein. Each memorial shall be published by the memorialists for two successive weeks in the *Government Gazette*, and shall also, during that time, be published by them in such other newspaper (if any), and so often as the Governor may direct, and the first publication thereof in the *Government Gazette* shall take place not later than fourteen days after the third publication therein of the petition to which it relates.

Cause may be shown against granting the relief.

Publication of memorials.

7. After the second publication of the memorials relating to any petition, or if there be no such memorial, one week after the last publication of the petition as aforesaid, and after the said petition shall have been laid before both Houses of Parliament, and not refused, as hereinbefore provided, the Governor may by Proclamation in the *Government Gazette*, grant or refuse all or some of the relief prayed for, and with or without such alteration or modification as to him may appear necessary or expedient; and before granting or refusing it, may require that the statements in the petitions and memorials respectively, or either of them, shall be substantiated by such proof and within such time as he may direct, or may appoint some person to inquire into and report upon the matter of any petition and of the memorials relating thereto.

Governor may require statements to be proved.

8. The Governor may by such Proclamation exempt such Manufacturing District, or any part thereof, from such of the enactments of "The Public Health Act," and of "The Public Health Amendment Act," and any other Act now or hereafter in force relating to public health, and of any regulations made under them, or either of

Governor may establish Manufacturing Districts.

The Manufacturing Districts Act.—1881.

of them; and also from such of the enactments of "The Municipal Corporations Act, 1880," and of "The District Councils Act, 1876," and of any other Act relating to Corporations or District Councils, and of any by-laws made under them, or either of them, as he shall think proper. In every Proclamation establishing a Manufacturing District, or altering the boundaries thereof, or altering or adding to the manufactures which may be carried on in such district, the boundaries of such district as so established or altered shall be defined; and the manufactures which may be carried on there shall also be specified in the Proclamation.

Proclamation to specify provisions from which District shall be exempted.

9. From and after such Proclamation all the orders, regulations, by-laws, and enactments specified in such Proclamation shall cease to have effect within and with respect to that Manufacturing District, or such part thereof; and no subsequent order or regulation of the Central Board of Health, or of any Local Board of Health, and no subsequent by-law made under "The Municipal Corporations Act, 1880," or "The District Councils Act, 1876," or such other Act as aforesaid, which is inconsistent with or contrary to, or which abrogates or lessens any right, privilege, or benefit conferred by or resulting from such exemption, shall have any effect or force within such Manufacturing District, or such part thereof; but whenever the boundaries of any Manufacturing District are altered so that any portion thereof ceases to be within the boundaries of such Manufacturing District then (unless and until such portion has become part of another Manufacturing District) all statutes, laws, by-laws, and regulations, which, but for such exemption, would have been in force within the limits of such Manufacturing District, shall thenceforward have the same force and effect in every place which has ceased to be or to form part of such district as they would have had if such exemption had never been made.

Power to carry on manufactures, &c.

10. Subject to the provisions and restrictions contained in this Act, and in the enactments incorporated with it, any person may, within a Manufacturing District, erect, execute, make, construct, maintain, and use all such buildings, works, and machinery as he shall require, and may do all acts necessary and proper for carrying on, and may carry on any manufacture authorised by Proclamation to be carried on there.

Limitation of powers of Corporations and District Councils over Manufacturing Districts.

11. Every Manufacturing District which is situated within the limits of a corporate city or town, or of a district under "The District Councils Act, 1876," shall, save as hereinafter mentioned, be subject to the jurisdiction of the Corporation, Town Council, or (as the case may be) of the District Council thereof, and to the jurisdiction of the Local Board of Health (if any) thereof, and of the Central Board of Health; but no such Corporation, Town Council, District Council, or Local Board of Health, or Central Board of Health shall exercise within or over any Manufacturing District, or the part thereof to which such exemption extends, any right or power which they or it might have exercised, or do, or cause

The Manufacturing Districts Act.—1881.

cause to be done there any act which they or it might have done or caused to be done in pursuance or by virtue of the enactments, orders, regulations, and by-laws, or any of them from the operation of which such Manufacturing District, or such part thereof is exempted.

12. Every person who shall be seized or possessed of or entitled to any lands, or any estate, or interest in lands which shall be damaged or injuriously or prejudicially affected or deteriorated in marketable value by the erection, execution, construction, or making of any buildings, works, or machinery, erected, executed, constructed, or made for the purpose of or to be used in carrying on any manufacture authorised by Proclamation to be carried on within a Manufacturing District, or by the subsequent use of such buildings, works, or machinery, or any of them, or by the carrying on there of such manufacture, or by any immediate consequence resulting from the erection, execution, construction, making, or use of any such buildings, works, or machinery, or from the carrying on in such district of any such manufacture, shall be entitled to compensation for such damage, injury, prejudice, or deterioration: Provided always that compensation shall not be given in respect of land bought by the claimant after the establishment of the Manufacturing District, unless the purchase shall have been made in fulfilment of a valid agreement subsisting when the district was established: Provided also that all claims for compensation under this clause shall be made and prosecuted within three years from the time when the manufacture which is alleged to have caused the injury was first carried on. All compensation, where the amount claimed is less than Fifty Pounds, may be recovered in a summary way before a Special Magistrate or two Justices of the Peace; and where exceeding Fifty Pounds, may be settled in the manner provided by the sixty-eighth section of the "Lands Clauses Consolidation Act."

Persons entitled to compensation and mode of settling it.

13. Claimants of compensation under this Act may make parties to any proceedings for the settlement and recovery thereof, all persons by whom the damage, injury, or prejudice in respect of which the compensation shall be claimed has been done or permitted, or who have contributed thereto, and at any time after the commencement of any proceeding under this Act to obtain compensation the Court or a Judge may, of its own motion, or on the application of any party to the proceeding, order the claimant to make a party defendant to such proceeding any person whom the Court or Judge shall think ought to be a party thereto in order to effect complete justice in one and the same proceeding, and may by subsequent order stay all further proceedings until such former order has been obeyed, or may make such other order as shall seem to such Court or Judge proper to effect complete justice. Every person from whom compensation shall be claimed under this Act may join as parties to any proceeding for the settlement and recovery thereof all persons who have contributed to the damage, injury, or prejudice

Parties.

The Manufacturing Districts Act.—1881.

prejudice complained of, and the burden of proving that the persons so joined to the proceedings have contributed to such damage, injury, or prejudice shall lie on the person who made them parties to the proceedings. The jury, or other persons by whom the amount of compensation to be paid in any case to a claimant shall be determined, shall also fix the portion of such amount which is to be paid by each person liable to make compensation in that case, and each such person shall be liable for that portion, and for a proportionate amount of the costs of the proceedings, but for no more.

No liability for nuisance if manufacture properly carried on.

14. The carrying on within a Manufacturing District of any manufacture authorised by Proclamation to be carried on within such district, shall not be deemed a nuisance, or, save as aforesaid, subject any person engaged in carrying on the same to any proceeding, civil or criminal: Provided, however, that such persons shall not be entitled to the protection of this Act if it be proved that the said manufacture was not conducted and carried on in a proper manner to prevent the same becoming a nuisance.

Power to make general rules, &c.

15. The Governor may make general rules, orders, and regulations for the effectual execution of this Act and of the intention and objects thereof, and may thereby prescribe, define, and fix the forms of all such Proclamations, petitions, and memorials, and the mode of substantiating the statements therein, and the mode, time, and place of conducting any inquiry into the matter of any such petition or memorial, and the procedure to be adopted at such inquiry, and the mode and time of using for any such manufacture the buildings and machinery being in any Manufacturing District, and the mode and time of carrying on any such manufacture, so that the damage, injury, prejudice, and annoyance created thereby or arising therefrom may be as little as reasonably may be, and may also thereby prescribe, define, and fix the proceedings and forms and modes of procedure for ascertaining and recovering the price of land purchased or taken otherwise than by agreement, and for obtaining compensation under this Act in any particular in which the proceedings or forms and modes of procedure for such purposes under the said Ordinance are wholly or in part inapplicable, or are not sufficiently prescribed, defined, or fixed, and may also make all such other general rules, orders, and regulations as shall be in his judgment proper or necessary for carrying out all or any of the purposes of this Act, and for accomplishing all or any of the aforesaid purposes; and (whether such general rules, orders, and regulations shall have been made or no) in any case under this Act in which suitable or adequate proceedings, forms, or modes of procedure have not been provided, it shall be lawful for the Supreme Court or a Judge thereof to make such rules, orders, or regulations for that particular case or occasion as to such Court or Judge shall seem necessary or proper to effect justice.

Rules and regulations to be laid before Parliament.

16. All general rules, orders, and regulations made by virtue of the authority of this Act, or copies thereof shall be laid before both Houses

The Manufacturing Districts Act.—1881.

Houses of Parliament not later than one month from the making thereof, if throughout such month Parliament shall be in Session, and if Parliament shall not be in Session throughout such month, then within one month after the commencement of the next ensuing Session thereof, and if not disallowed by express resolution of either House of Parliament within one month after being so laid before both Houses of Parliament, all such general rules, orders, and regulations shall, after the expiration of such lastly-mentioned month, be conclusively deemed to be valid, and shall have the force of law, and shall be judicially noticed, but until the expiration of such lastly-mentioned month shall not have any validity. All such general rules, orders, and regulations shall, as soon as conveniently may be after the making thereof, be published in the *Government Gazette*, and the production of a paper being or purporting to be a copy of the *Government Gazette*, in which all or any general rules, orders, and regulations shall be published shall, after such general rules, orders, and regulations respectively have obtained the force of law as aforesaid, be conclusive evidence that all the provisions of this Act in respect thereto have been complied with.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 213.

An Act to regulate and restrict Chinese Immigration.

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to regulate the immigration of Chinese into the Province of South Australia, and to obtain security for the payment of any expenses that may be incurred in respect of such immigrants, and of any fines or penalties imposed upon them—Be it therefore Enacted by the Governor of the Province of South Australia, by and with the advice and consent of the Legislative Council and House of Assembly of the said province, in Parliament assembled, as follows:

Preamble.

1. For the purposes of this Act the following words in inverted commas shall, unless the context otherwise indicate, bear the meanings set against them respectively—

Interpretation.

“Chinese”—Any person of the Chinese race not being a British subject:

“Vessel”—Any ship or other sea-going vessel of whatsoever kind or description:

“Master”—The person other than a pilot for the time being in actual command of any such vessel.

2. None of the provisions of this Act shall apply to that portion of the said province known as the Northern Territory: Provided always that any ship carrying Chinese, and all Chinese in such ship, arriving from the Northern Territory, or any port in the said province, and situate in such Territory, shall be deemed to have arrived

This Act not applicable to Northern Territory.

Proviso.

The Chinese Immigrants Regulation Act.—1881.

arrived from beyond the province, and be liable to the provisions of this Act accordingly: Provided also that section 5 of this Act shall apply to every Chinese arriving otherwise than by a vessel from any part of this province within one thousand miles north of Adelaide.

Master on arrival to give list of Chinese on board.

3. The master of every vessel having Chinese on board shall, immediately on his arrival from beyond the said province in any port of the said province, and before making any entry at the Customs, deliver to the Collector or other principal officer of Customs a list of such Chinese, specifying the name, the place of birth, the apparent age, the ordinary place of residence, the place and date of shipment, and the calling or occupation of each such Chinese, so far as such information can be obtained by such master. And for each default herein such master shall be liable to a penalty not exceeding Two Hundred Pounds.

Number of Chinese ships may carry.

4. If any vessel shall arrive in any port in the said province having on board a greater number of Chinese passengers for any port in the said province than in the proportion of one to every ten tons of the tonnage of such vessel, according to the registry thereof if British, and if not, then according to the measurement defined by "The Merchant Shipping Act, 1854," the owner, charterer, or master of such vessel shall be liable, on conviction, to a penalty not exceeding Ten Pounds for each Chinese passenger so carried in excess.

Penalty.

£10 to be paid for each Chinese arriving by vessel.

5. Before any Chinese arriving from beyond the said province shall be permitted to land from any vessel, and before making any entry at the Customs, the master of the vessel shall pay to such Collector or other principal officer the sum of Ten Pounds for every such Chinese, to be applied in manner hereinafter provided; and no entry shall be deemed to have been legally made or to have any legal effect until such payment shall have been made.

Penalty.

And if any master shall neglect to pay any such sum, or shall land or permit to land any Chinese at any place in the said province before such sum shall have been paid for or by him, or before such list shall have been delivered, such master shall be liable, for every such offence, to a penalty not exceeding Twenty Pounds for each Chinese so landed or permitted to land in addition to the amount of such sum.

Like sum for Chinese arriving otherwise.

6. Every Chinese arriving in the said province after the passing of this Act, otherwise than by any vessel, shall pay or have paid for him to some officer whom the Governor may appoint, at any places on or near the borders of the said province or otherwise conveniently situate for that purpose, a like sum of Ten Pounds.

Chinese to be vaccinated.

7. Before any Chinese shall be allowed to land from any vessel, every such Chinese shall be vaccinated by a medical man duly appointed for the purpose, unless such medical man certifies, in writing, that such Chinese has been already vaccinated. **8.** The

The Chinese Immigrants Regulation Act.—1881.

8. The Collector or other officer receiving such sum from or for any Chinese shall, without demand, forthwith give him a certificate in writing under his hand of the payment of such sum, and such certificate, whensoever and wheresoever produced by such Chinese, shall be conclusive evidence on behalf of himself and of any other person who may have paid such sum for him that such sum has been duly paid.

Certificate of sum paid to be given to Chinese and to be evidence.

9. All sums paid by or on behalf of any Chinese, and all penalties under this Act, shall be paid over to the Treasurer, for the public use of the province.

Mode of application of payments.

10. If any Chinese shall enter or attempt to enter the said province without paying, or having paid for him, the sum of Ten Pounds aforesaid, he shall, besides such sum, be liable to a penalty not exceeding Ten Pounds, and may be apprehended and taken before any Justice of the Peace to be dealt with according to law.

Penalty on not paying, or having had paid, fee for entrance to the province

11. At the hearing of any prosecution under this Act, the Justices may decide upon their own view and judgment whether any person charged or produced before them is a Chinese within the meaning of this Act.

Evidence of person being a Chinese.

12. It shall be lawful for the Treasurer, or any person authorised by him, upon the application of any Chinese, and upon being satisfied that such Chinese was, at the time of the passing of this Act, a *bonâ fide* resident of the said province, and that he desires to be absent therefrom for a temporary purpose only, to grant to such Chinese a certificate that he is exempt from the provisions of this Act for a time to be specified in such certificate. And during the time so specified the holder of such certificate shall be exempt from all payments under this Act.

Certificate of exemption may be granted in certain cases.

13. The sum of Ten Pounds aforesaid shall not be payable by or in respect of any Chinese who is one of the crew of any vessel, unless he shall land from such vessel without having previously obtained the consent of such Collector or other principal officer of Customs.

Act not to apply to crew.

14. All penalties and forfeitures imposed by this Act shall be sued for, prosecuted, and recovered before a Justice of the Peace in a summary way, in the name of some officer of Customs, or other person thereunto authorised.

Penalties, how recovered.

15. This Act may be styled, and may be cited as, "The Chinese Immigrants Regulation Act of 1881."

Short title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 214.

An Act to amend "The Post Office Act, 1876."

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to amend "The Post Office Act, 1876"—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. Sections 17 and 18 of "The Post Office Act, 1876," are hereby repealed.

2. The sum of One Halfpenny shall be prepaid for every newspaper posted in South Australia.

Postage of $\frac{1}{2}$ d. on all newspapers not entitled to free delivery.

3. Section 19 of "The Post Office Act, 1876," shall be read as if the words "shall be deemed a newspaper" were inserted after the word "advertisement" in line 3, and as if the word "unstitched" had been omitted from the said section.

Amendment of section 19 of "The Post Office Act, 1876."

4. This Act may be cited as the "Post Office Act Amendment Act, 1881."

Short title.

5. This Act shall come into operation on the first day of January, one thousand eight hundred and eighty-two.

Commencement of Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 215.

An Act to further amend "The Volunteer Act, 1865-6;"
also Act No. 19 of 1866-7; "The Rifle Com-
panies Act, 1878;" and Act No. 169 of 1880.

[Assented to, November 18th, 1881.]

WHEREAS it is desirable to further amend "The Volunteer Act, 1865-6," "An Act passed by the Governor and Legislative Council and House of Assembly of the Province of South Australia, in the thirtieth year of the reign of Her present Majesty Queen Victoria, being No. 19 of 1866-7," and "The Rifle Companies Act, 1878," and to amend "An Act passed by the Governor and Legislative Council and House of Assembly of the said province in the forty-third and forty-fourth years of the reign of Her present Majesty Queen Victoria, being No. 169 of 1880"—Be it therefore Enacted by the Governor of the said province, with the advice and consent of the Legislative Council and the House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. This Act may for all purposes be cited as the "Local Forces Acts Amendment Act, 1881."

Short title.

2. This Act (so far as is consistent with the tenor thereof) shall be construed as one with "The Volunteer Act, 1865-6," the said Act No. 19 of 1866-7; "The Rifle Companies Act, 1878," and the said Act No. 169 of 1880.

Incorporation.

3. From and after the passing of this Act, the rifle companies organised under the "Rifle Companies Act, 1878," shall be called "Rifle Volunteer Companies," and "The South Australian National Rifle Association," formed thereunder, shall be called "The Rifle

"Rifle Companies" to be called "Rifle Volunteer Companies," and "South Australian National Rifle Association" to

Volunteer

Local Forces Act Amendment Act.—1881.

be called "The Rifle Volunteer Force."

Volunteer Force:" And the "Rifle Companies Act, 1878," and all rules and regulations made thereunder, and the said Act No. 169 of 1880, shall, unless the context otherwise requires, be read, construed, and have effect as if the words "Rifle Volunteer Company" were inserted therein, in lieu of the words "Rifle Company" or "Rifle Club," whenever such lastly-mentioned words respectively occur; and as if the words "Rifle Volunteer Companies" were inserted therein in lieu of the words "Rifle Companies" or "Rifle Clubs," whenever such lastly-mentioned words respectively occur; and as if the words "Rifle Volunteer Force" were inserted therein in lieu of the words "South Australian National Rifle Association" or "National Rifle Association," wherever such lastly-mentioned words respectively occur; and as if the word "Force," which, in the construction of the said Acts, unless the context otherwise requires, shall mean the "Rifle Volunteer Force," were inserted therein in lieu of the word "Association," whenever such lastly-mentioned word occurs.

Oath to be taken before Justice of the Peace.

4. Whenever, by any Act in the preamble referred to, provision is made for the taking of any oath, such oath may be taken before any Justice of the Peace for the said province.

Regulations as to retirement of officers.

5. The Governor may, from time to time, make such regulations as to him may seem meet, for regulating the time and mode of retirement of officers in the Volunteer Force, and generally for preserving the efficiency of such force.

Repeal.

6. Section 1 of "The Volunteer Act, 1865-6," section 1 of "The Rifle Companies Act, 1878," and the meaning given to the term "Association" in section 2 of "The Rifle Companies Act, 1878," are hereby repealed, save so far as concerns anything lawfully done under the authority thereof.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 216.

An Act for the Further Appropriation of the Revenue for the Year ended June thirtieth, one thousand eight hundred and eighty-one, and for the General Appropriation of the Revenue for the Year ending June thirtieth, one thousand eight hundred and eighty-two.

[*Assented to, November 18th, 1881.*]

WHEREAS by the Laws relating to the Customs and Trade Preamble.
and other Acts and Ordinances of the Province of South Australia, certain duties, fines, and other moneys are or may be imposed, levied, and collected, to be paid to the Treasurer on behalf of Her Majesty, Her heirs and successors, for the public uses of the said province and support of the Government thereof—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. Out of the said duties, and the produce of all or any other the Appropriation of
General Revenue.
General Public Revenues of the said province, not otherwise by law specially appropriated, there shall or may be further issued and applied, in the manner hereinafter mentioned, any sums of money not exceeding in amount respectively the several sums of money hereinafter specified, that is to say—

FIRSTLY.—For defraying the Excess of Expenditure for the Excess of Expendi-
ture, 1880-81.
Government Establishments and Public Services beyond the Grant for the year ended the thirtieth day of June, one thousand eight hundred

Appropriation Act.—1881.

hundred and eighty-one the sum of Eighty-six Thousand Eight Hundred and Ninety-two Pounds Four Shillings and One Penny, the said amount being appropriated as follows, viz.:—

	£	s.	d.
Customs Convention with New South Wales	18,365	8	11
The Legislature	7,516	14	5
Civil Establishments	5,875	18	11
Judicial and Legal Departments	232	17	0
Education	5,351	18	2
Postal and Telegraph Services	5,764	10	6
Agriculture	107	9	9
Charitable Institutions	367	8	2
Customs	496	5	6
Public Works	8,809	10	11
Pensions, Retiring Allowances, and Gratuities	3,080	13	4
Interest and Exchange	13	17	7
Miscellaneous	28,072	17	9
Immigration	2,836	15	2
Total Excesses on Votes, 1880-81.. .. .	£86,892	4	1

Estimates, 1881-82.

SECONDLY.—For defraying the charge of the Colonial Government for the year ending the thirtieth day of June, one thousand eight hundred and eighty-two, the sum of One Million Four Hundred and Ninety Thousand Two Hundred and Eleven Pounds Nineteen Shillings and Elevenpence, the said amount being appropriated as follows, viz.:—

	£	s.	d.
Legislature	13,091	0	0
Private Secretary	2,172	0	0
Office of Chief Secretary	1,855	0	0
Audit	3,435	0	0
Sheriff	1,345	0	0
Registrar-General of Births, Deaths, and Marriages	3,000	0	0
Printing Office	15,353	10	0
Law Officers	3,168	0	0
Patent and Copyright	100	0	0
Public Trustee	620	0	0
Treasury	3,131	0	0
Agency in England	3,515	0	0
Office of Commissioner of Crown Lands and Immigration	1,465	0	0
Stock Inspectors	3,063	0	0
Botanic Garden	6,286	0	0
Forest Board	6,349	0	0
Office of Commissioner of Public Works	1,700	0	0
Office of Minister of Education	1,307	0	0
Supreme Court	8,149	10	0
Court of Insolvency	2,365	0	0
Magistrates and Local Courts	20,995	0	0
Coroners	1,922	0	0
Registrar-General of Deeds	11,464	10	0
Police	83,304	17	6
Gaols and Prisons	21,285	7	6
Department of Education	89,843	15	4
Institutes	12,097	10	0
Art Gallery	1,000	0	0
Post Offices and Telegraphs	171,034	12	5
Agriculture	1,839	0	0
Medical Officers	2,672	0	0
Hospitals	18,282	18	2
Lunatic Asylums	19,898	11	6
Destitute Poor	27,456	6	11

Central

Appropriation Act.—1881.

	£	s.	d.
Central Board of Health	1,944	0	0
Quarantine Station	1,191	18	0
Cemeteries	964	0	0
Aborigines	5,738	9	11
Military Defences	24,153	19	3
Customs	16,243	0	0
Harbors and Lights	25,148	5	4
Architect-in-Chief	3,618	0	0
Local Boards of Main Roads	11,598	0	11
Engineer-in-Chief	24,276	10	11
Railways and Tramways	312,370	18	4
Waterworks	28,119	10	0
Survey and Crown Lands	57,292	3	7
Retiring Allowances and Gratuities	10,100	0	0
Interest and Exchange	1,250	0	0
Works and Buildings	83,795	18	5
Roads, Streets, Bridges, Jetties, &c.	36,089	11	10
Maintenance of Main Roads	149,520	0	0
Aids to Corporations, District Councils, and Drainage Board	60,000	0	0
Miscellaneous	67,449	0	0
Immigration	20,000	0	0
Total Estimates 1881-82	£1,490,211	19	11

THIRDLY.—For further defraying the charge of the Colonial Government for the year ending the thirtieth day of June, one thousand eight hundred and eighty-two, the sum of Thirty-five Thousand Seven Hundred and Forty-nine Pounds Seventeen Shillings and Sixpence, the said amount being appropriated as follows, viz.:—

Supplementary Estimates, 1881-82.

	£	s.	d.
Civil Establishments	600	0	0
Judicial and Legal Departments	265	0	0
Police	392	7	6
Education	2,000	0	0
Charitable Institutions	1,895	10	0
Military Defences	500	0	0
Customs	50	0	0
Public Works	24,165	0	0
Railways and Tramways	300	0	0
Miscellaneous	5,582	0	0
Total Supplementary Estimates, 1881-82	£35,749	17	6

FOURTHLY.—For defraying the charge of the Northern Territory for the year ending the thirtieth day of June, one thousand eight hundred and eighty-two, there shall be paid out of the Northern Territory Revenues the sum of Forty Thousand One Hundred and Eighteen Pounds Ten Shillings, the said amount being appropriated as follows, viz.:—

Northern Territory Expenditure, 1881-82.

	£	s.	d.
Government Resident	2,805	5	0
Charitable Institutions	2,164	15	0
Judicial and Legal	2,032	15	0
Police	3,689	15	0
Marine	270	0	0
Customs	1,145	0	0
Goldfields	360	15	0
Survey and Crown Lands	2,449	10	0
Botanic Garden	1,130	15	0

Postal

Appropriation Act.—1881.

	£	s.	d.
Postal	7,000	0	0
Education	220	0	0
Public Works and Buildings	11,990	0	0
Chinese and Coolie Labor (formerly Immigration)	600	0	0
Miscellaneous	4,260	0	0
Total Northern Territory Estimates, 1881-82 ..	<u>£40,118</u>	<u>10</u>	<u>0</u>

Treasurer to pay the orders of Governor, and discharge by receipt of party.

2. The Treasurer shall issue and pay from time to time any sum or sums of money for the purposes hereinbefore mentioned, not exceeding in the whole the sums respectively in that behalf hereinbefore specified, to such persons, and in such portions, as the Governor for the time being shall, by any order or orders in writing, signed by him, and countersigned by the Chief Secretary, from time to time direct; and the said Treasurer shall, in his accounts, be allowed credit for all sums paid by him in pursuance of such orders accordingly; and the receipts of the persons to whom such sums shall have been so paid shall be to him a full discharge for the sum or sums for which the same receipts shall have been respectively given, and the amounts thereof shall be passed to his credit in account accordingly.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 217.

An Act to consolidate and amend the Laws relating to
the Dedication and Leasing of Lands granted
for Educational Purposes.

[Assented to, November 18th, 1881.]

WHEREAS it is desirable to consolidate and amend the laws relating to the dedication and leasing of lands granted for educational purposes—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

Preamble.

1. Section 25 of "The Education Act, 1875," "The Education Act Amendment Act, 1877," and sections 7 and 8 of "The Education Amendment Act, 1878," are hereby repealed, but such repeal shall not affect the validity of any reservation, dedication, or grant, or of any lease or licence, or of any contract, covenant, act, deed, matter, or thing, made, done, granted, or entered into under the enactments hereby repealed, or any of them, or of any rights or liabilities existing or arising out of anything heretofore lawfully done under the said enactments, or any of them.

Repeal.

2. Section 24 of "The Education Act, 1875," shall be read and construed as if the word "Commissioner" were inserted in the third and seventh lines thereof, in lieu of the word "Council."

Commissioner to be read in lieu of Council in Education Act, 1875.

3. The Commissioner of Crown Lands and Immigration for the time being of the province and his successors shall be a body politic and corporate, under the name or title of "The Commissioner of Educational

Commissioner of Crown Lands to be Commissioner of, and have control over educational lands.

The Educational Lands Act.—1881.

Educational Lands," and shall and may, by that name or title, sue and be sued, plead and be impleaded, in all Courts and before all Justices, and shall have perpetual succession and a common seal.

Lands heretofore granted for endowment of education to vest in Commissioner.

4. Notwithstanding anything contained in section 1 of "The Education Act Amendment Act, 1878," all lands heretofore granted by way of endowment for education, under the authority of section 24 of "The Education Act, 1875," shall, immediately upon the passing of this Act, become, and shall thereafter remain, vested in the Commissioner of Educational Lands (hereinafter called "the Commissioner"), subject, nevertheless, to all leases, licences, contracts, and agreements heretofore lawfully granted or entered into in respect of such lands.

Governor may grant lands for school sites.

5. The Governor may reserve, dedicate, and grant to the Minister Controlling Education any waste lands of the Crown as sites for school buildings, and may also, with the consent in writing of any person holding any of the waste lands of the Crown under agreement or lease under any law for the time being in force respecting the sale upon credit or the leasing of such lands, grant to the said Minister, as a site for school buildings, any land included in any such agreement or lease; and after such grant the agreement or lease in which such land was so included shall be read and construed as if such land had been expressly excepted out of the land described in such agreement or lease.

Commissioner may demise lands and grant licences to search for and remove minerals.

6. The Commissioner may from time to time demise and let any of the lands now or hereafter vested in him as such Commissioner as aforesaid, and may grant licences to any persons to search for and remove minerals and metals from any lands so vested in him as aforesaid, and may charge and recover such fees or other payments and impose such terms and conditions in respect of such licences as may be charged, recovered, and imposed under the laws from time to time in force respecting licences to search for and remove minerals and metals from Crown lands; and all leases of lands so vested in him as aforesaid, (except leases granted for mining purposes), shall be construed as if there were inserted therein an exception of minerals and metals and a power to grant licences to search for and remove the same in the same manner in all respects as is provided with respect to Crown lands and waste lands under the provisions of "The Crown Lands Consolidation Act," and of an Act, No 26, of 1870-71, intituled "An Act to amend the Laws relating to Gold Mining, and for other purposes," and the Regulations made under the said Acts, or either of them, or as near thereto as the circumstances of the case will permit.

Leases to be offered at auction.

7. The right to a lease of land under this Act for other than mineral purposes shall be offered for sale by public auction, at such upset price per acre per annum, and upon such terms with respect to the payment for any improvements on such land as the Commissioner shall in each case direct; and the person to whom such lease

The Educational Lands Act.—1881.

lease shall be granted shall be the person who at such auction shall offer the highest sum above the upset price for the annual rent of the lands intended to be comprised in such lease. Notice of the time and place at which such auction will be held, and of what lands are to be offered thereat, the amount (if any) to be paid for improvements on such lands, and the purposes for which such lands are to be let, shall be given by advertisement in the *Government Gazette* published not less than one nor more than three calendar months before the day of holding such auction; but the Commissioner may at any time postpone or adjourn any such advertised sale.

8. Every lease under this Act shall be for such term not exceeding twenty-one years in possession as the Commissioner may determine, and shall be granted for the purposes stated in the notice of sale, and shall contain covenants by the lessee to pay the rent thereby reserved half-yearly in advance; to destroy Bathurst bur and all other noxious weeds, and also to destroy all animals required to be destroyed by law; to pay all rates and taxes levied, imposed, or assessed upon the land demised, or upon the landlord or tenant in respect thereof; to repair and keep in repair all buildings, erections, and fences built, erected, or being upon the said land during the term of the lease, and the same so repaired and kept in repair to yield and deliver up at the end or other sooner determination of the lease, and not to assign, sublet, or part with the possession of all or any part of the demised premises without the previous consent in writing of the Commissioner; and shall also contain a proviso for forfeiture on breach or non-observance of any of the covenants therein contained, and such other covenants, terms, and conditions as the Governor may think advisable; and the Governor is hereby empowered from time to time to provide, by regulations to be published in the *Government Gazette*, what other covenants, terms, and conditions shall be inserted in leases to be thereafter granted under the provisions of this Act.

Term and conditions
of lease.

9. In every case where the whole or any part of the rent of any land heretofore leased under "The Education Act, 1875," or any Act incorporated therewith, or hereafter leased under this Act, shall not have been paid or shall not be paid on the day when such rent became or shall become payable, the lessee or person liable for the payment of such rent shall, in addition to the amount of the rent in arrear, pay into the Treasury a penalty, if such rent shall be paid within one month after the day on which the same became due, of Five Pounds per centum; or, if such rent shall not be paid within one month from the day on which the same became due, of Ten Pounds per centum upon the amount of such rent: And the Commissioner is hereby authorised to recover the amount of rent in arrear, together with the penalty hereinbefore imposed for the non-payment thereof, by action in any Court of competent jurisdiction, or by distress upon the goods and chattels of the lessee or person liable for the payment of such rent and penalty, wheresoever such goods and chattels may be found.

Penalties for non-
payment of rent
on due dates.

10. In

The Educational Lands Act.—1881.

Forfeiture of leases
for non-payment of
rent.

10. In every case where the whole or any part of the rent of any such leased land shall have been or shall be in arrear and unpaid for three months after the day on which the same became or shall become payable, it shall be lawful for the Commissioner to cancel the lease of such land by inserting a notice in the *Government Gazette* declaring such lease to be forfeited; and every such notice shall be taken to be conclusive evidence that the lease therein mentioned was legally cancelled and forfeited: Provided that the Commissioner may in any case waive the forfeiture of any lease upon such terms and conditions as he may deem advisable: And provided also that notwithstanding any such forfeiture as aforesaid the Commissioner may recover the amount of rent in arrear (calculated up to the time of such forfeiture as accruing due day by day) by action in any Court of competent jurisdiction, or by distress upon the goods and chattels of the lessee in arrear, wheresoever such goods and chattels may be found, and may also proceed for recovery of damages for breach of any covenant or agreement contained in such lease.

Power to accept sur-
renders.

11. The Governor may at any time accept the surrender of any lease upon such terms and conditions as he may think fit.

Holder of forfeited
or surrendered lease
disqualified from again
holding same land.

12. No person who shall have held a lease forfeited or surrendered under the provisions of this Act shall again become the lessee, or become the under-lessee or assignee, of the land or any part of the land included in such forfeited or surrendered lease; and if any person shall hold any land contrary to this provision, the lease of the land so held by him shall become at once absolutely forfeited and void, except in so far as may be necessary to support any action against him for the breach previous to such forfeiture of any covenant or agreement contained in such lease.

Commissioner may
contract with lessees
under existing or
future leases for the
payment for improve-
ments.

13. The Commissioner may contract or covenant respectively with the lessee under any existing lease, or with the lessee of any lease to be hereafter made under the authority of this Act, for the payment by the said Commissioner, on the expiration of any such lease, for any permanent and substantial improvements made by any such lessee on the demised lands; and all moneys so contracted or covenanted to be paid shall be paid by the Treasurer out of the moneys paid into the Treasury, under the authority of this Act.

Application of income.

14. All rents, royalties, fees, penalties, and annual or other payments received in respect of any lease or licence heretofore granted under the authority of "The Education Act, 1875," or of any of the Acts incorporated therewith or hereafter to be granted under the authority of this Act, shall be paid into the Treasury, and shall be applied by the Treasurer towards the erection of schoolhouses, payment of salaries, and other expenditure in carrying out the provisions of "The Education Act, 1875," and of this Act, but so that no such moneys, other than payments for improvements as hereinbefore mentioned, shall be expended without the sanction of Parliament.

15. Notwithstanding

The Educational Lands Act.—1881.

15. Notwithstanding anything hereinbefore contained, the lessees whose names, the dates of whose leases, the extent of land held by whom, the hundreds in which such lands are situate, the value of whose improvements on such lands, and the arrears of rent due by whom are set forth in the Schedule hereto, may (subject to the provisions hereinafter contained), within three months from the passing of this Act, surrender their respective leases mentioned in the said Schedule, and shall thereupon respectively be released and discharged from the payment of two years' rent due by them respectively under such leases: Provided always that no such lessee shall become entitled to avail himself of such right to surrender his lease until he shall have paid into the Treasury such sum in respect of the rent due beyond the two years' rent to be remitted under this section as the Commissioner shall in each case deem to be fair and equitable.

Lessees enumerated in Schedule may have two years' rent remitted on surrender of leases.

16. Except in so far as the same are inconsistent herewith, "The Education Act, 1875," and all Acts incorporated therewith, shall be read and incorporated herewith as forming one Act.

Incorporation.

17. This Act may be cited for all purposes as "The Educational Lands Act, 1881."

Short Title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

W. F. DRUMMOND JERVOIS, Governor.

The Educational Lands Act.—1881.

THE SCHEDULE REFERRED TO.

Names of Lessees.	Date of Lease.	Extent of Land in Acres.	Hundred.	Value of Improvements.	Arrears.	Number of Sections.
				£ s. d.	£ s. d.	
James Howe	March 1, 1877	1,281	Pirie	245 9 0	733 17 11	262
"	"	259	Wandearah	216 0 0	259 0 0	6
E. J. Hector	"	889	Pirie	85 15 3	463 0 5	263
"	May 1, 1877	742	"	84 13 1	146 17 1	266
Edward Sinclair	March 1, 1877	998	"	393 13 9	216 4 8	265
J. G. Magarey	"	1,122	"	338 7 6	813 9 0	268w & 269n
R. & C. Butler	"	1,281	"	155 18 9	974 1 8	268x & 270n
"	May 1, 1877	1,325	"	161 8 9	317 8 9	267
"	March 1, 1877	1,027	{ Pirie and Wandearah }	186 16 3	952 2 1	270s, 2n, & 3
"	"	1,357	Wandearah	217 0 3	1,187 7 6	9
Seth Ferry	"	1,176	"	294 17 6	551 5 0	5
James Lewis	"	1,064	"	307 3 9	1,436 8 0	7
William Thomson ..	"	1,247	"	692 5 0	987 4 2	8
H. Strange	"	913	"	215 6 6	798 17 6	10
H. D. Cowled	May 1, 1877	941	"	189 7 6	225 8 9	1



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 218.

An Act to amend the "Mining Companies Act, 1881."

[*Assented to, November 18th, 1881.*]

WHEREAS it is desirable to amend the "Mining Companies Act, 1881," in manner hereinafter provided—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :—

Preamble.

1. This Act may be cited as the "Mining Companies Amendment Act, 1881."

Short title.

2. It shall not be necessary to publish a copy of the memorandum lodged in the office of the Registrar of Companies so far as the same relates to the names, addresses, and occupations of the shareholders, and the number of shares held by each, but the same shall nevertheless be inserted in the said memorandum; and any document purporting to be certified under the hand of the Registrar of Companies as a copy of such memorandum shall be *prima facie* evidence that the persons named therein as shareholders in any such company are such shareholders.

Publication of names and addresses of shareholders not necessary.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 219.

An Act to authorise the Transfer of certain Loan Moneys.

[*Assented to, November 18th, 1881.*]

WHEREAS the moneys borrowed for public purposes under the authority of Acts of Parliament have been on various occasions in excess of the amounts required for the purposes authorised by the said Acts: And whereas other moneys borrowed under the authority of other Acts of Parliament will not, in consequence of the bonds issued thereunder having brought a higher price than was anticipated, be wholly required for the purposes authorised by such Acts: And whereas it is desirable to appropriate certain sums so borrowed, which remain unexpended, or unlikely to be required, to purposes other than those for which they were borrowed—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. The sums of money received by the Treasurer in excess of the requirements of the public works set forth in the first column of the Schedule A hereto under the authority of the Acts of Parliament set forth in the second column of the said Schedule, and which sums of money are more particularly set forth in the third column of the said Schedule, and also the sums of money received by him in excess of the probable requirements of the public purposes set forth in the first column of the Schedule B hereto, which sums are more particularly set forth in the last column of the said Schedule B, shall be applied by him to the construction of the public works set forth in the Schedule C hereto, and to the extent therein set forth, and shall be so applied by the Treasurer in such amounts and manner

Application
moneys.

as

Transfer of Loan Moneys Act.—1881.

as the Governor, by any warrant under his hand, countersigned by the Chief Secretary, may, from time to time, authorise and direct.

Salaries to be
sanctioned by Parlia-
ment.

2. So much of the moneys to be applied by the Treasurer aforesaid as may be required for salaries of officers for the public works hereby authorised to be constructed shall be annually submitted to Parliament.

Returns.

3. The Treasurer shall, on or before the thirtieth day of September in each year, cause an account or abstract to be prepared of the whole receipts, and of the expenditure of all moneys advanced to him for the purposes of this Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the Auditor-General, and a copy of such account shall be forthwith published in the *Government Gazette*.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

Transfer of Loan Moneys Act.—1881.

SCHEDULES REFERRED TO.

SCHEDULE A.

Public Work.	Authorising Acts.	Amount to be transferred.
Railways—		£ s. d.
Port Wakefield Extension	Act No. 47 of 1876....	3,092 3 3
Kingston and Naracoorte	Act No. 24 of 1875....	100 1 8
Port Pirie and Gladstone	Act No. 47 of 1876....	3,439 9 3
Extension through and Wharves, &c.,) Port Pirie	Act No. 18 of 1874 ..	187 15 9
Port Broughton and Barunga Range	Act No. 47 of 1876....	7,558 16 1
Kapanda and North-West Bend	Act No. 47 of 1876....	15,191 0 11
Rivoli Bay and Mount Gambier	Act No. 47 of 1876....	6,228 0 9
Gladstone and Jamestown	Act No. 47 of 1876....	13,081 12 9
Kadina and Barunga Gap	Act No. 47 of 1876....	4,143 9 9
Hamley Bridge and Balaklava	Act No. 77 of 1877....	893 17 6
Barunga Extension	Act No. 77 of 1877....	767 7 1
Hallett and Terowie	Act No. 129 of 1878 ..	6,591 15 1
Tramways—		
Strathalbyn and Middleton	Act No. 28 of 1867....	2,122 15 4
Gawler Town	Act No. 77 of 1877....	102 13 0
Jetties—		
Stansbury	Act No. 57 of 1876....	11 16 5
Point Turton	Act No. 57 of 1876....	2 12 0
Port Victoria	Act No. 57 of 1876....	75 7 5
Minlacowie	Act No. 57 of 1876....	2,081 5 7
Moonta Bay	Act No. 77 of 1877....	413 0 11
Port Broughton	Act No. 77 of 1877....	3,375 7 10
Louth Bay	Act No. 77 of 1877....	435 3 8
Ardrossan	Act No. 129 of 1878 ..	192 14 10
Lighthouses—		
Tiparra Reef	Act No. 77 of 1877 ..	227 7 6
Rivoli Bay	Act No. 77 of 1877 ..	38 19 4
Althorpe Island	Act No. 129 of 1878 ..	21 0 1
Bridges—		
Hindmarsh and Maria Creek.....	Act No. 129 of 1878 ..	1,311 15 5
Murray	Act No. 77 of 1877....	8,961 14 7
Water Supply—Wilmington	Act No. 77 of 1877....	150 13 6
Telegraph—Kingston to Naracoorte, &c.	Act No. 57 of 1876....	219 7 10
		£81,019 5 1

SCHEDULE

Transfer of Loan Moneys Act.—1881.

SCHEDULE B.

Public Purposes.	Estimates on which Loan Bills were framed.	Percentages added.	Total amount of bonds authorised by Acta.	Amounts to be transferred.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Act No. 159 of 1879.				
Construction of Main Roads.....	200,000 0 0	16,000 0 0	216,000 0 0	— —
Waterworks—Port Augusta, Port Pirie, Port Adelaide, and Port Adelaide Suburban	38,500 0 0	3,080 0 0	41,580 0 0	— —
Deepening, &c., Port Adelaide, Port Pirie, and Port Augusta.....	186,000 0 0	14,800 0 0	199,800 0 0	— —
Jetties—Balgowan, Mount Dutton Bay, Venus Bay, and Waterloo Bay..	6,500 0 0	500 0 0	7,000 0 0	— —
Erection of Schoolhouses	10,000 0 0	800 0 0	10,800 0 0	— —
Telegraph Extension.....	73,150 0 0	5,850 0 0	79,000 0 0	— —
Northern Territory	50,000 0 0	4,000 0 0	54,000 0 0	— —
Defences and Military Road.....	35,000 0 0	2,800 0 0	37,800 0 0	2,800 0 0
Railway—Naracoorte and Tatiara	195,000 0 0	15,600 0 0	210,600 0 0	15,600 0 0
South Australian Railways—Additional Accommodation	22,500 0 0	1,814 0 0	24,314 0 0	— —
New Government Offices, &c.	60,000 0 0	4,800 0 0	64,800 0 0	— —
Quarantine Buildings, &c.....	22,500 0 0	1,800 0 0	24,300 0 0	3,938 12 5
Overflow of River Sturt—To prevent	6,550 0 0	540 0 0	7,090 0 0	612 15 11
Act No. 189 of 1880.				
South Australian Railways—Additional Accommodation	81,774 0 0	6,526 0 0	88,300 0 0	— —
Jetties—Port Germein, Franklin Harbor, and Port Rickaby	21,544 0 0	1,706 0 0	23,250 0 0	1,706 0 0
Northern Territory	50,000 0 0	4,000 0 0	54,000 0 0	— —
Erection of Schoolhouses	50,000 0 0	4,000 0 0	54,000 0 0	— —
Telegraph Extension.....	5,000 0 0	400 0 0	5,400 0 0	— —
Lighthouse, Corny Point, Third order light for	2,000 0 0	160 0 0	2,160 0 0	— —
Lighthouse, Cape Northumberland, First order light for.....	6,750 0 0	540 0 0	7,290 0 0	— —
Waterworks	142,500 0 0	11,400 0 0	153,900 0 0	— —
	£1,264,268 0 0	£101,116 0 0	£1,365,384 0 0	£24,657 8 4

SCHEDULE

Transfer of Loan Moneys Act.—1881.

SCHEDULE C.

	£	s.	d.
Jetties—Balgowan, Mount Dutton Bay, Venus Bay, and Waterloo Bay, to complete.....	1,500	0	0
New Government Offices, to complete	10,730	0	0
Lighthouse, Corny Point, Third order light for	2,300	0	0
New Parliament Building—First instalment	50,000	0	0
South Australian Institute—To complete wing	16,000	0	0
Conservation of water within Hundreds	25,146	18	5
	<u>£105,676</u>	<u>18</u>	<u>5</u>



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 220.

An Act to amend the "Northern Territory Land Amendment Act of 1876," and for other purposes.

[Assented to, November 18th, 1881.]

WHEREAS it is desirable to amend the "Northern Territory Land Amendment Act of 1876"—Be it therefore Enacted by the Governor of the Province of South Australia, by and with the advice and consent of the Legislative Council and House of Assembly, in this present Parliament assembled, as follows:

1. Section 3 of the "Northern Territory Land Amendment Act, 1876," is hereby repealed so far as it relates to the land hereinafter described.

Repeal of section 3 of No. 48 of 1876.

2. The Governor may demise for any period not exceeding twenty-one years, for grazing and other pastoral purposes, the waste lands shown in the plan deposited in the office of the Surveyor-General, and described in Schedule hereto, in rectangular blocks not exceeding four hundred square miles, and may reserve in any such demise such rent payable in advance or otherwise, and may insert therein such conditions as to resumption of town and suburban sections, railways, roads, or public reserves, and of land within the distance of twenty miles from any railway that may be constructed, and such other provisions as may be deemed necessary for securing to the public the right of passing over the said land, and for authorising the searching for and removing minerals therefrom, and clauses of forfeiture, as may be prescribed by any regulations to be made under this Act.

Power to demise lands described in Schedule.

3. The

Northern Territory Land Amendment Act.—1881.

Lands to be let by
public auction, with
notice.

3. The said lands shall not be let as aforesaid unless the lease to be granted in respect thereof shall have been first offered for sale by public auction; and before such lease shall be offered for sale by auction, notice of the intention to offer the same by auction shall be published in the *Government Gazette* for not less than two months, describing the land proposed to be offered, date of sale, the upset price, and the term of lease. If the land should not be sold it shall be again offered at a reduced upset price.

Power to make
regulations.

4. The Governor may make and publish such regulations as may be deemed necessary for fully and effectually carrying out and giving force and effect to the various purposes, provisions, and powers in this Act contained, and every regulation when published in the *Gazette* shall have the force of law.

Governor's authority
to demise land under
section 3 of Act No.
48, 1876, confirmed.

5. Notwithstanding the Act 179 of 1880, and the regulations in the preamble thereof referred to, it is hereby declared that, under section 3 of the said "Northern Territory Land Amendment Act, 1876," the Governor has heretofore been and still is entitled to demise, to the first applicant therefor, one or more blocks of land, other than the waste lands described in the Schedule hereto, of the area, and for the term and upon the conditions in such section referred to, and whether such blocks (if more than one) adjoin each other or otherwise.

Short title.

6. This Act may be cited as the "Northern Territory Land Amendment Act, 1881."

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM, F. DRUMMOND JERVOIS, Governor.

SCHEDULE

Northern Territory Land Amendment Act.—1881.

SCHEDULE.

No. of Block.	Area in Square Miles.	No. of Block.	Area in Square Miles.
101	300	116	300
102	300	117	300
103	300	118	300
104	300	119	300
105	300	120	300
106	300	121	300
107	300	122	325
108	300	123	325
109	300	124	325
110	300	125	325
111	300	126	325
112	300	127	325
113	300	128	325
114	300	129	325
115	300	—	—

DESCRIPTION.

Comprising all those lands on the Herbert River, bounded as follows, viz. :—
Commencing at a point fifty miles true south of the junction of the Herbert and James Rivers; thence west for forty-five miles; thence north 100 miles; thence east fifteen miles; thence north sixty miles; thence east to the west boundary of the Colony of Queensland, 138th meridian of east longitude; thence south to latitude fifty miles south of the junction of the Herbert and James Rivers; thence west to the point of commencement.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 221.

An Act to provide for the formation of a Line of Railway
to Strathalbyn, with a branch from Sander-
grove to Milang.

[*Assented to, November 18th, 1881.*]

WHEREAS it is expedient to provide for the construction of a Preamble
Line of Railway from Mount Barker Junction Station, near
Littlehampton, to Strathalbyn, with a branch from Sander-
grove to Milang: And whereas plans of the proposed railway, showing the
line thereof, together with the book of reference thereto, have been
duly prepared and deposited in the offices of the Surveyor-General, at
Adelaide, and signed "H. C. Mais, Engineer-in-Chief"—Be it there-
fore Enacted by the Governor of the Province of South Australia,
with the advice and consent of the Legislative Council and House
of Assembly of the said province, in this present Parliament
assembled, as follows:

1. "The Lands Clauses Consolidation Act," and an Act, No. 26 Incorporation.
of 1855-6, to amend "The Lands Clauses Consolidation Act," and
"The Railways Clauses Consolidation Act," and an Act, No. 6 of
1858, to amend "The Railways Clauses Consolidation Act," and all
other Acts passed or hereafter to be passed amending the said "Rail-
ways Clauses Consolidation Act" or "Lands Clauses Consolidation
Acts," so far as the same are severally applicable to this Act, shall be
incorporated therewith, and the said Acts shall be read and con-
strued accordingly.

2. The Commissioner of Railways, hereinafter called "the said Power to make
railway.
Commissioner," may make and maintain a line of railway from Mount
Barker

Mount Barker and Strathalbyn Railway Act.—1881.

Barker Junction Station, near Littlehampton, to Strathalbyn, with a branch from Sandergrove to Milang, together with all proper works and conveniences connected therewith, as the same is delineated in the said plans so deposited at the offices of the Surveyor-General, at Adelaide, as aforesaid, or as may be delineated in any plans which may hereafter be so deposited, pursuant to any law for the time being in force respecting such deposit of the said plans.

Gauge.

3. The gauge of the said railway shall be five feet three inches, and the rails to be used in the construction thereof shall be of steel, and of the weight of not less than sixty-one pounds to the yard.

Powers of Commissioner.

4. The said Commissioner may demand any tolls for the use of the said railway, not exceeding the following, that is to say—

Tolls.

i. In respect of the tonnage of all articles conveyed upon the said railway, or any part thereof not in this Act otherwise particularly specified, the rate of Ninepence per ton per mile:

For wool, measurement goods, fruit, and furniture, One Shilling per ton per mile:

For every description of carriage, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, One Shilling and Threepence per mile; and for any ton or fractional part of a ton beyond one ton which any carriage may weigh, Eightpence per mile.

Tolls for passengers and cattle.

ii. In respect of passengers and animals conveyed upon the said railway in carriages, whether belonging to the said Commissioner or otherwise, as follows—

For every person conveyed in or upon any such carriage, being a first-class carriage, or compartment of a carriage, Fourpence per mile:

For every person conveyed in a second-class carriage or compartment, Threepence per mile:

For every horse, mule, ass, or other beast of draught or burden conveyed upon the said railway, Sixpence per mile; and for every ox, cow, bull, or neat cattle so conveyed, Twopence per mile:

For every calf, sheep, lamb, pig, or other small animal, conveyed in or upon the said railway, One Halfpenny per mile:

Provided always, that for every fraction of a mile a full mile may be charged, and that for any shorter distance than three miles, three miles may be charged.

Tolls to include use of motive power.

5. In the said tolls shall be included the toll for the use of the carriages, and of the engines or other means used for propelling the carriages on the said railway, and no further charge than is heretofore stated shall be made therefor: Provided that nothing

Mount Barker and Strathalbyn Railway Act.—1881.

nothing herein contained shall be construed to prevent an extra charge being made for the use of engines and carriages for special and express trains: Provided also that nothing herein contained shall preclude private individuals from contracting with the said Commissioner for permission to use their own trucks or carriages upon the said railway.

6. In addition to the prescribed tolls for the conveyance of articles, the said Commissioner may charge a reasonable sum for loading and unloading: Provided always that the owners of goods shall be at liberty to employ their own servants for loading and unloading, subject to the regulations in force for the time being for the working of the said railway. Regulations as to tolls.

7. The weight of all articles, except stone and timber, shall be determined according to the usual avoirdupois weight; with respect to stone and timber, fourteen cubic feet of stone, and forty cubic feet of hard wood, and fifty cubic feet of other timber, shall be deemed one ton weight, and so on in proportion for any smaller quantity: Provided that any less quantity than half a ton may be charged as half a ton. Weight, how determined.

8. Notwithstanding the rate of tolls hereinbefore prescribed, the said Commissioner may lawfully demand the tolls following, for small packages and single articles of no great weight, that is to say— Tolls for separate parcels.

For the carriage of any parcel not exceeding twenty-eight pounds in weight, not exceeding One Penny per mile each:

For any parcel not exceeding fifty-six pounds in weight, not exceeding Three Halfpence per mile each:

For any parcel not exceeding one hundred and twelve pounds in weight, not exceeding Twopence per mile each; and not exceeding One Penny per mile each for every additional fifty-six pounds in weight:

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which shall exceed four tons, the said Commissioner may demand such sum as he shall think fit:

Provided that articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but such terms shall apply only to single parcels in separate packages.

9. In all cases where any article, matter, or thing, not being a small package, shall be carried or conveyed along the said railway for so short a distance that the sum of money authorised by this Act to be demanded or received for the same shall not amount to the sum of Three Shillings per ton, the sum to be paid in respect to the carriage thereof shall be Three Shillings per ton. Fixed sum per ton for short distances,

10. Owners

Mount Barker and Strathalbyn Railway Act.—1881.

Goods, when to be removed.

10. Owners or consignees of articles shall remove the same from the station or terminus of their destination on the said railway within twelve working hours after their arrival there, unless such arrival shall be between the hours of four in the evening and seven in the morning, and in that case every such removal shall be made within six hours after such hour in the morning, and in default of such removal shall be liable to demurrage at and after the rate of Two Shillings and Sixpence per ton; and further, if not removed after the expiration of twenty-four hours at and after the rate of One Shilling per ton for every twenty-four hours or any part thereof: Provided, nevertheless, that if such articles be not removed from such station or terminus of their destination before the end of one week after their arrival there, the sum of Two Shillings and Sixpence per ton per week shall be charged and payable in respect of such goods for the warehouse room thereof.

Passengers' luggage.

11. Every passenger travelling upon the said railway may take with him his ordinary luggage, not exceeding one hundred pounds in weight for first-class passengers, and sixty pounds in weight for other passengers, without any charge being made for carriage thereof.

Appropriation of tolls, &c.

12. All tolls, rents, dues, charges, and sums of money which may at any time be received and levied under authority hereof, and all rents to arise from any lease of the said railway, shall be, from time to time, in such manner as the Governor may prescribe, paid to the Treasurer for the public purposes of the said province.

Annual abstract of accounts to be published.

13. The said Commissioner shall, on or before the first day of August in every year, prepare an annual account in abstract of the total receipts and expenditure under authority hereof for the railway by this Act authorised to be constructed, from what source soever the same may be derived, for and during the preceding year ending the thirtieth day of June, under the several distinct heads of receipt and expenditure, with a statement of the balance of the same account duly audited and certified by the Treasurer, and also by the Auditor-General, and a copy of such account shall be published in the *Government Gazette*.

Exemption from rates.

14. The railway by this Act authorised to be constructed, shall be, and is hereby declared to be, exempt from all rates and taxes whatsoever, whether local or general.

Short title.

15. This Act may be cited as the "Mount Barker and Strathalbyn Railway Act, 1881."

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 222.

An Act to enable the Commissioner of Railways to erect a Bridge over North-terrace and across the Adelaide City and Port Railway at Morphett-street crossing, in the City of Adelaide, and for other purposes.

[Assented to, November 18th, 1881.]

WHEREAS the construction of a bridge over North-terrace and Preamble.
across the Adelaide City and Port Railway at the northern end or termination of Morphett-street, in the City of Adelaide, would be of great benefit to the inhabitants of the said city, and to the community at large: And whereas in order to construct the said bridge it will be necessary to use portion of the said street, called Morphett-street, at its northern end: And whereas it has been found necessary for public purposes, that the level of a portion of the public street called North-terrace should be altered, and a retaining wall erected, and such alteration has been made accordingly: And whereas it is expedient that the said alteration should be validated and its continuance lawfully authorised: And whereas a plan showing the position of the said bridge, and the roads and streets, and also the portion of the streets the level of which has been altered, signed "H. C. Mais, Engineer-in-Chief, 10/8/81," together with a book of reference, has been deposited in the office of the Surveyor-General, at Adelaide—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. Notwithstanding anything contained in section 1 of the Act Power to erect bridge, piers, and other works.
No.

The Morphett-street Bridge Act.—1881.

No. 126 of 1878, intituled “An Act to authorise the Commissioner of Railways to take possession of portion of the Adelaide Park Lands, and for other purposes,” the Commissioner of Railways, hereinafter called “the said Commissioner,” is hereby authorised and empowered to make, erect, and construct, out of any moneys which have been or hereafter may be voted by Parliament for such purpose, a good and substantial bridge over North-terrace and across the Adelaide City and Port Railway at the northern end or termination of Morphett-street in a line with the bridge over the River Torrens known as the Victoria Bridge, and may form and make all necessary embankments, roads, ways, approaches, piers, buildings, works, and conveniences for the completion of the said works.

Power to use streets

2. The said Commissioner may enter upon and use the roads or streets in the said city called Morphett-street and North-terrace, and the road leading to the said Victoria Bridge, as delineated and referred to in the said plan, showing the line of the said bridge and works in connection therewith, signed “H. C. Mais, Engineer-in-Chief, 10/8/81,” and deposited in the office of the Surveyor-General, at Adelaide as aforesaid, or so much thereof as shall be or be deemed necessary, and may make and maintain upon the said streets, the bridge and approaches the gradients whereof are shown upon the said plan, and all embankments, erections, works, and conveniences aforesaid connected therewith as shall be or be deemed necessary for such purposes or any of them.

Surveyor-General to receive plans, and allow inspection.

3. The Surveyor-General shall keep the said plan and book of reference and all other documents deposited with him for the purposes of this Act, and shall allow all persons interested to inspect and copy any of the documents aforesaid.

Bridge to be placed under control of City Corporation.

4. Upon the completion of the said bridge and works authorised by this Act, the said Commissioner shall place the said bridge and works aforesaid under the care, control, and management of the said Corporation of the City of Adelaide, and thereupon the said Commissioner's liability to keep and maintain the said bridge shall cease and determine.

Exemption from rates and taxes.

5. The bridge and works by this Act authorised to be constructed shall be, and the same is hereby declared to be, exempt from all and all manner of rates and taxes whatsoever, local or otherwise.

Exemption from liability to actions.

6. The Commissioner of Railways and all persons concerned therein are hereby released from all causes of action or liabilities incurred by him or them, by reason of the alteration by him or them of the level of that portion of the public road or street known as North-terrace, shown on the said plan, and the erection of the said wall, and the said Commissioner is hereby authorised to keep and continue the said portion of the said street at the same or any other level which may seem to him from time to time expedient; and to erect

The Morphet-street Bridge Act.—1881.

erect or complete the erection of, and from time to time to repair and renew, any retaining walls that may be necessary in consequence of the alteration of the said level: Provided always, that except as aforesaid, the said portion of the said public road or street shall only be used for the purposes of, or in connection with the said bridge, or for traffic purposes, and no buildings or other erections shall be placed thereon.

7. This Act may be cited for all purposes as “The Morphet-street Bridge Act.” Short title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 223.

An Act to amend the "Real Property Act, 1861," and for
other purposes.

[*Assented to, November 18th, 1881.*]

WHEREAS doubts have arisen as to whether under the "Real Property Act, 1861," rights-of-way, appurtenant and in gross, or other easement, constitute an interest in land capable of being brought under the provisions of the said Act, and in respect of which caveats may be entered, and whereas it is expedient to settle such doubts—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. In the construction and for the purposes of the "Real Property Act, 1861" (if not inconsistent with the context and subject matter), the word "land" shall, in addition to the meaning assigned thereto by section 3 of the said Act, mean and include rights-of-way appurtenant and rights-of-way in gross, and all other easements of any kind whatsoever.

Interpretation of
word "land."

2. Any person possessed of or entitled to a right-of-way, appurtenant or in gross, or other easements, in, over, under, or across any lands in respect of which an application may hereafter be made to bring such lands under the provisions of the "Real Property Act, 1861," shall be deemed to be a person having an estate or interest in the land over or in respect of which such right-of-way or other easement exists, and shall be entitled to lodge with the Registrar-General a caveat forbidding the bringing of such land under the provisions of the Act as aforesaid, except subject to the said right-of-way or other easement.

Caveats in respect of
rights-of-way.

3. Every

Rights-of-Way Act.—1881.

Certificate evidence
of right-of-way.

3. Every certificate of title issued after the passing hereof, and containing therein a statement that the land therein described has appurtenant thereto a right or rights-of-way or other easements, or that the person therein named is entitled to any right-of-way or other easement in gross, or that the said land therein described is subject to a right or rights-of-way or other easements, shall fully set forth a true and accurate description, and in the case of a right-of-way contain a plan thereof in the margin of such right or rights-of-way or easements, or shall refer to the instrument creating such right or rights-of-way or easement, if such instrument be enrolled or deposited in the General Registry Office at Adelaide, or in the case of rights-of-way to any plan deposited in the General Registry Office, or the Lands Titles Registration Office, on which such rights-of-way are shown; and such certificate shall, if duly authenticated under the hand and seal of the Registrar-General, unless in the case of a right-of-way, such right-of-way shall not appear upon the certificate of title of the registered proprietor of the land over which such right or rights or easements are claimed, be received, except in the case of fraud, as conclusive evidence that the right or rights-of-way or easements therein mentioned and described exist appurtenant to, or in gross, in respect of or over the land in the said certificate mentioned, as the case may be.

Registered proprietor
not to be subject to
ways not mentioned
in certificate.

4. Upon any land being hereafter brought under the provisions of the said "Real Property Act," the registered proprietor thereof shall be deemed to hold the land mentioned in the certificate of title, subject to such rights-of-way only as are mentioned and set forth in such certificate.

Application to bring
lands under the Act
must set forth rights-
of-way.

5. In every application hereafter made to bring land under the provisions of the "Real Property Act of 1861," the applicant shall be bound to include full particulars so far as he is aware of every right-of-way existing in, over, across, or under the said land, whether such right-of-way shall have been acquired by grant or otherwise.

Mode of dealing
with caveats.

6. Caveats lodged in respect of rights-of-way or easements as aforesaid shall be dealt with by the same persons and in like manner as is prescribed for dealing with caveats under the "Real Property Act, 1861," and the "Real Property Act Amendment Act, 1878;" and the procedure prescribed by the said Acts for the removal thereof shall be the procedure to be adopted for the removal of caveats lodged by virtue of this Act.

Application for
entries of rights-of-
way on certificates.

7. Any person claiming to be entitled to a right-of-way, appurtenant, or in gross, or to any other easement over or in respect of any lands at the passing hereof under the provisions of the "Real Property Act, 1861," may make application to the Registrar-General to have an entry of such right-of-way or other easement made upon the folium of the certificate of title of the lands over or in respect which such right-of-way or other easement is claimed, and such application shall be in the form in the Schedule A to this Act

Rights-of-Way Act.—1881.

Act annexed; and such applicant shall lodge with the Registrar-General all instruments in his possession or under his control, showing his title to such right-of-way or other easement; and such application shall contain a reference to the registered number of the certificate of title of the land over or in respect of which such right-of-way or other easement is claimed.

8. The proceedings upon every such application shall be as nearly as may be similar to the proceedings upon an application to bring land under the provisions of the "Real Property Act, 1861": Provided that, in addition to the notices required by the said Act to be published in the *Government Gazette*, express notice of such application shall be given by the Registrar-General to the registered proprietor of the land over which the right-of-way or easement is claimed: And provided also that such registered proprietor shall be entitled to inspect all instruments of title lodged with such application. Notice of application.

9. If, within the time limited by any such notice as aforesaid, the Registrar-General shall not have received from the registered proprietor a caveat forbidding the entry of the right-of-way or other easement claimed in the said application, the Registrar-General shall make an entry upon the folium of the certificate of title of the said lands in the register-book, and also upon the duplicate certificate of title of the said land, to be produced by the registered owner, or by the mortgagee, encumbrancee, or deposittee of the certificate of title, for that purpose, and such entry shall accurately set forth the particulars of such right-of-way or other easement, and the name of the person entitled thereto; and the plan in the margin of the certificate of title shall be amended by showing therein every such right-of-way and other easement, and a memorandum shall be subscribed under the said plan showing the date of such amendment. Notice of objection to rights-of-way by registered proprietor.

10. Every entry made in pursuance of this Act of a right-of-way or other easement over lands under the provisions of the "Real Property Act, 1861," shall be received, except in the case of fraud, in all Courts as conclusive evidence of the existence of such right-of-way or other easement and that the person mentioned therein is entitled to such right-of-way or other easement. Entry conclusive evidence of way, except in case of fraud.

11. Subject to the provisions of section 60 of the Real Property Act Amendment Act of 1878, every person at the time of passing hereof entitled to a right-of-way over or in respect of land under the provisions of the "Real Property Act, 1861," may, within a period of five years from the passing hereof, make application under the provisions hereof to have an entry of such right-of-way made upon the folium of the certificate of title of the said land in the register-book, and also upon the certificate of title of the registered owner, to be produced by such owner for that purpose, and after the expiration of the period of five years, as aforesaid, the registered proprietor of land under the provisions of the "Real Property Act, 1861," Rights-of-way barred after five years if not entered on certificate.

Rights-of-Way Act.—1881.

1861," shall hold the land mentioned in such certificate free, and discharged from all rights-of-way not entered upon the folium of the certificate of title of the said land; and after such period the person entitled to apply under this section as aforesaid shall be for ever debarred from claiming any right-of-way over the said land, unless he shall have so applied as aforesaid.

Public rights-of-way
not within this Act.

12. Rights now or hereafter acquired or enjoyed by the public in, over, along, or across any land or way, or other easement acquired or enjoyed by the public, shall not be deemed to be rights-of-way or easements within the meaning of this Act, or in respect of which applications may be made or caveats entered, and nothing herein contained shall derogate from any of such rights or easements, or be deemed to confer on the registered proprietor of land under the provisions of the "Real Property Act, 1861," a right to interfere with or obstruct the public use of any way or other easement under such rights as aforesaid.

Service of notices.

13. All notices required to be served and given under this Act may be given by enclosing the same addressed to the last-known place of abode of the person to whom the same is directed, and forwarded as a registered letter through the General Post Office.

Fees.

14. The Registrar-General shall be entitled to charge the several fees specified in the Schedule hereto marked B, in respect of the matters in such Schedule mentioned.

Certificates issued
before Act conclusive
evidence of way
therein described

15. Every certificate of title heretofore issued under the provisions of the "Real Property Act, 1861," containing therein a statement that the registered proprietor is seized of the land described in such certificate, subject to or together with any right or rights-of-way therein described and in the plan therein delineated, or together with any easements therein described, shall be deemed to operate as a grant or reservation, as the case may be, of such right or rights-of-way, or other easements, and such certificate shall in all Courts, except in the case of fraud, be received as conclusive evidence of the existence of such right or rights-of-way or other easements: Provided that this section shall not apply to any right or rights-of-way or other easements the title to which is at the time of the passing of this Act the subject of pending litigation in any Court of Law, or to any right or rights-of-way or other easements, the right to which has been concluded adversely to such right-of-way or easement in any Court of Law.

Rights-of-way
created hereafter to
be entered upon cer-
tificates of owners of
land.

16. Whenever any land shall hereafter be brought under the provisions of the Real Property Act of 1861, having appurtenant thereto a right-of-way or other easement over lands then under the provisions of such Act, or whenever any right-of-way appurtenant to land under the provisions of the said Act over land also under its provisions, or any other easement, shall hereafter be created or transferred, the Registrar-General shall enter the memorial of the instrument

Rights-of-Way Act.—1881.

instrument granting, creating, or transferring such right-of-way or easement upon the foliums of the register-book, and the certificate of title of both servient and dominant owners.

17. And whereas it is expedient to provide that the transfer of and title to land under the provisions of the "Real Property Act, 1861," compulsorily taken under the powers and provisions of the "Lands Clauses Consolidation Act," or of any amendments thereof, and vested thereunder by deed poll executed by the promoters of the undertaking in the said Act mentioned, shall appear upon the folium of the register-book of the said lands: Be it enacted—Every deed-poll heretofore executed, and every deed poll hereafter executed, by virtue of which lands under the provisions of the "Real Property Act, 1861," shall have been or shall hereafter be vested in the promoters of the undertaking as provided by the "Lands Clauses Consolidation Act," or any amendment thereof, shall, for the purposes of the "Real Property Act, 1861," have the same effect as a transfer duly executed by the registered proprietor of the land mentioned and described in the said deed-poll; and the Registrar-General shall, upon any such deed poll being lodged with him by the promoters, register the same upon the folium of the grant or certificate of title in the register-book of the said lands in like manner as transfers are now registered, and shall require the registered proprietor, or any deposittee, mortgagee, or encumbrancee who may hold the same, to deliver up the grant or certificate of title for the purpose of having the said deed-poll entered thereon; and the Registrar-General shall, after such registration and entries as aforesaid, issue a certificate of title to such promoters, and a new certificate of title for the balance of the land in such original grant or certificate of title contained, and shall cancel such original grant or certificate: Provided that the expense of obtaining such certificate and balance certificate shall be borne by the promoters of the undertaking.

Deed-poll by promoters of undertaking under Lands Clauses Acts to have effect of transfer under Real Property Act.

Saving clause.

18. Nothing herein contained shall be deemed to alter or lessen the effect of any deed-poll heretofore or hereafter executed as aforesaid, or to give to any transferee of a registered proprietor under a transfer subsequent in date to such deed-poll, any estate or interest in the lands mentioned in such deed-poll, or any priority over the promoters executing such deed-poll.

Not to affect any deed poll heretofore or hereafter executed.

19. This Act may be cited for all purposes as the "Rights-of-way Act, 1881."

Short title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

Rights-of-Way Act.—1881.

SCHEDULE A.

Application for entry of Right-of-way, or other easement, in Certificate of Title.

John Smith, of 30, King William-street, Adelaide, grocer, claims to be entitled to a right-of-way [appurtenant, *or in gross, as the case may be*] over the lands comprised in the certificate of title, Register Book , vol. folio , for [carts, carriages, horses, foot-passengers, *as the case may be*] [*or over, under, or across, as the case may be*] the said land [*if the application be for any other easement*, claims to be entitled to the following (*description of easement*) in respect of the lands comprised in certificate of title, Register Book , vol. , folio ,]. The title deeds to the said right-of-way [*or other easement*] so claimed are lodged herewith, and the said John Smith hereby applies to have an entry of the said right-of-way [*or other easement*] made upon the folium of the above-mentioned certificate of title, pursuant to the Act on that behalf.

Dated this day of 18 .

[*Signature of the applicant, or his duly
authorised agent.*]

SCHEDULE B.

Fees.

	£	s.	d.
On every application for certificate for or entry of a right-of-way, or other easement	0	5	0
On the lodging of every caveat against entry of right-of-way, or other easement, or against bringing right-of-way, or other easement, under the Act	0	10	0
For every notice by the Registrar-General	0	5	0
For every production of instruments lodged by person claiming right-of-way, or other easement.....	0	2	0



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 224.

An Act to amend Act No. 194 of 1880.

[*Assented to, November 18th, 1881.*]

WHEREAS it is desirable to amend Act No. 194 of 1880, and Preamble.
to further promote the cultivation of sugarcane and other
tropical products, and to enable lands selected or to be selected
under the said Act, in the Northern Territory, to be worked in
large blocks—Be it therefore Enacted by the Governor of the
Province of South Australia, by and with the advice and consent of
the Legislative Council and House of Assembly, in this present
Parliament assembled, as follows:

1. If any person or company shall become entitled by transfer, Conditions of contract when several blocks held by one person.
assignment, or otherwise, under more than one contract, to two or
more sections or blocks of land, the conditions as to shape, occupa-
tion, cultivation, amount to be expended, and quantity of products
to be obtained from the said sections or blocks shall be deemed to
apply to such sections or blocks of land as a whole in the same
manner as if all of such sections or blocks had been lawfully selected
and held under one contract. Provided that no such amalgamation
shall be permitted unless such sections are contiguous and shall not
in the aggregate exceed twenty thousand acres.

2. This Act, and the Act No. 194 of 1880, intituled "An Act to Incorporation.
encourage the settlement of that part of the Province of South
Australia known as the Northern Territory, and to provide for the
cultivation of sugarcane and other tropical products therein," shall
be incorporated, and be read and construed together, as forming
one Act.

3. The

Northern Territory Settlement Act Amendment Act—1881.

Cox's Peninsula.

3. The provisions of Act No. 194 of 1880, and of this Act, shall also apply to such part of the land known as Cox's Peninsula as shall not be less than ten miles distant from Palmerston.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 225.

An Act to amend "The Probate and Succession Duty
Act, 1876."

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to amend "The Probate and Suc- Preamble.
cession Duty Act, 1876," in manner hereinafter provided—
Be it therefore Enacted by the Governor of the Province of South
Australia, with the advice and consent of the Legislative Council
and House of Assembly of the said province, in this present Parlia-
ment assembled, as follows:

1. This Act, and "The Probate and Succession Duty Act, 1876," Incorporation.
hereinafter referred to as the principal Act, shall be incorporated
and read together as one Act.

2. The probate duties imposed by the principal Act shall not Estates under \$1,000
exempted from duty
under principal Act.
hereafter be chargeable upon the property belonging to the estate
of any deceased person, in any case where the whole value of such
property, after deducting the debts of such deceased person, does
not exceed the sum of One Thousand Pounds; nor shall succession
duties be chargeable upon any portion of an estate of such value
given to, or passing to, or for the benefit of the lawful children of
such deceased person.

3. (1.) In every case where any executors, administrators, or the Personal represent-
ative not to transfer
land until succession
duty paid, and Regis-
trar-General not to
register dealings until
payment.
public trustee shall have become the registered proprietors
of, or has vested in them or him any land in respect whereof
any succession duty is payable, such executors or adminis-
trators, or public trustee shall not transfer or convey such
land

The Probate and Succession Duty Act Amendment Act.—1881.

land to the person entitled thereto as devisee or otherwise, or in any other manner deal with the same until such succession duty is duly paid.

- (2.) The Registrar-General shall refuse to register any transfer, or conveyance, or other instrument affecting any such land executed by such executors, administrators, or public trustee, unless there be endorsed on such transfer, or conveyance, or other instrument a certificate under the hand of the Commissioner of Inland Revenue or Registrar of Probates, as the case may be, that the succession duty payable in respect thereof has been duly paid, or that no succession duty is payable, the estate being exempt under clause 2 of this Act.
- (3.) The Registrar-General shall not issue any certificate of title to any person, for any estate of freehold in remainder, in respect whereof any succession duty shall thereafter be payable, until he shall receive a certificate from the Commissioner of Inland Revenue, or the Registrar of Probates, as the case may be, that such duty has been commuted under the fifty-fifth section of the principal Act, and the amount of duty assessed thereunder duly paid, or that no succession duty is payable, the estate being exempt under clause 2 of this Act.
- (4.) It shall be the duty of the Commissioner of Inland Revenue or the Registrar of Probates, as the case may be, to give such certificates at the request of such executors, administrators, or the public trustee, or any successor, at any time after payment of such duty.
- (5.) The Registrar-General shall refuse to register any executor or administrator as proprietor of any beneficial estate or interest in land under the provisions of the "Real Property Act, 1861," unless such executor or administrator produces to the Registrar-General a certificate under the hand of the Commissioner of Inland Revenue or Registrar of Probates, as the case may be, that the succession duty payable in respect thereof has been duly paid, or that no succession duty is payable, the estate being exempt under clause 2 of this Act.

Regulations may be made for determining the mode of assessing duties.

4. The Governor may make regulations for determining the mode of assessing the duties payable under the principal Act, and such regulations, when published in the *Government Gazette*, shall have the force of law, and they shall be laid before both Houses of Parliament forthwith, if Parliament be then sitting, and if not, then within twenty-one days after the commencement of the next Session. Until such regulations are so made and published, the said duties shall be assessed as at present.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 226.

An Act to provide for the formation of a Line of Railway
from Farina Town to near Hergott Springs.

[*Assented to, November 18th, 1881.*]

WHEREAS it is expedient to provide for the construction of a Preamble.
Line of Railway from Farina Town to near Hergott Springs:
And whereas plans of the proposed railway, showing the line
thereof, together with the book of reference thereto, have been duly
prepared and deposited in the offices of the Surveyor-General, at
Adelaide, and signed "H. C. Mais, Engineer-in-Chief"—Be it
therefore Enacted by the Governor of the Province of South
Australia, with the advice and consent of the Legislative Council
and House of Assembly of the said province, in this present
Parliament assembled, as follows:

1. "The Lands Clauses Consolidation Act," and an Act, No. 26 Incorporation.
of 1855-6, to amend "The Lands Clauses Consolidation Act," and
"The Railways Clauses Consolidation Act," and an Act No. 6 of
1858, to amend "The Railways Clauses Consolidation Act," and all
other Acts passed or hereafter to be passed amending the said Rail-
ways Clauses Consolidation Act or Lands Clauses Consolidation Acts,
so far as the same are severally applicable to this Act, shall be incor-
porated therewith, and the said Acts shall be read and construed
accordingly.

2. The Commissioner of Railways, hereinafter called "the said
Commissioner," may make and maintain a line of railway from Power to make
railway.
Farina Town to near Hergott Springs, together with all proper works
and conveniences connected therewith, as the same is delineated in
the said plans so deposited at the offices of the Surveyor-General, at
Adelaide, as aforesaid, or as may be delineated in any plans which
may

Farina Town and Hergott Springs Railway Act.—1881.

may hereafter be so deposited, pursuant to any law for the time being in force respecting such deposit of the said plans.

Rate of speed.

3. Trains carrying goods, or goods and passengers, shall not travel at a greater rate of speed than fourteen miles an hour; and trains carrying passengers only shall not travel at a greater rate of speed than twenty miles an hour.

Gauge.

4. The gauge of the said railway shall be three feet six inches, and the rails to be used in the construction thereof shall be of steel, and of the weight of not less than fifty pounds to the yard.

Powers of Commissioner.

5. The said Commissioner may demand any tolls for the use of the said railway, not exceeding the following, that is to say—

Tolls.

i. In respect of the tonnage of all articles conveyed upon the said railway, or any part thereof, not in this Act otherwise particularly specified, the rate of Ninepence per ton per mile:

For wool, measurement goods, fruit, and furniture, One Shilling per ton per mile:

For every description of carriage, not being a carriage adapted and used for travelling on a railway, and not weighing more than one ton, carried or conveyed on a truck or platform, One Shilling and Threepence per mile; and for any ton or fractional part of a ton beyond one ton which any carriage may weigh, Eightpence per mile.

Tolls for passengers and cattle.

ii. In respect of passengers and animals conveyed upon the said railway in carriages, whether belonging to the said Commissioner or otherwise, as follows—

For every person conveyed in or upon any such carriage, being a first-class carriage, or compartment of a carriage, Fourpence per mile:

For every person conveyed in a second-class carriage or compartment, Threepence per mile:

For every horse, mule, ass, or other beast of draught or burden conveyed upon the said railway, Sixpence per mile; and for every ox, cow, bull, or neat cattle so conveyed, Twopence per mile:

For every calf, sheep, lamb, pig, or other small animal, conveyed in or upon the said railway, One Halfpenny per mile:

Provided always, that for every fraction of a mile a full mile may be charged, and that for any shorter distance than three miles, three miles may be charged.

Tolls to include use of motive power.

6. In the said tolls shall be included the toll for the use of the carriages, and of the engines or other means used for propelling the carriages on the said railway, and no further charge than

Farina Town and Hergott Springs Railway Act.—1881.

than is heretofore stated shall be made therefor: Provided that nothing herein contained shall be construed to prevent an extra charge being made for the use of engines and carriages for special and express trains: Provided also that nothing herein contained shall preclude private individuals from contracting with the said Commissioner for permission to use their own trucks or carriages upon the said railway.

7. In addition to the prescribed tolls for the conveyance of articles, the said Commissioner may charge a reasonable sum for loading and unloading: Provided always that the owners of goods shall be at liberty to employ their own servants for loading and unloading, subject to the regulations in force for the time being for the working of the said railway. Regulations as to tolls.

8. The weight of all articles, except stone and timber, shall be determined according to the usual avoirdupois weight; with respect to stone and timber, fourteen cubic feet of stone, and forty cubic feet of hard wood, and fifty cubic feet of other timber, shall be deemed one ton weight, and so on in proportion for any smaller quantity: Provided that any less quantity than half a ton may be charged as half a ton. Weight, how determined.

9. Notwithstanding the rate of tolls hereinbefore prescribed, the said Commissioner may lawfully demand the tolls following for small packages and single articles of no great weight, that is to say— Tolls for separate parcels.

For the carriage of any parcel not exceeding twenty-eight pounds in weight, not exceeding One Penny per mile each:

For any parcel not exceeding fifty-six pounds in weight, not exceeding Three Halfpence per mile each:

For any parcel not exceeding one hundred and twelve pounds in weight, not exceeding Twopence per mile each; and not exceeding One Penny per mile each for every additional fifty-six pounds in weight:

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which shall exceed four tons, the said Commissioner may demand such sum as he shall think fit:

Provided that articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but such terms shall apply only to single parcels in separate packages.

10. In all cases where any article, matter, or thing, not being a small package, shall be carried or conveyed along the said railway for so short a distance that the sum of money authorised by this Act to be demanded or received for the same shall not amount to the Fixed sum per ton for short distances.
sum

Farina Town and Hergott Springs Railway Act.—1881.

sum of Three Shillings per ton, the sum to be paid in respect to the carriage thereof shall be Three Shillings per ton.

Goods, when to be removed.

11. Owners or consignees of articles shall remove the same from the station or terminus of their destination on the said railway within twelve working hours after their arrival there, unless such arrival shall be between the hours of four in the evening and seven in the morning, and in that case every such removal shall be made within six hours after such hour in the morning, and in default of such removal shall be liable to demurrage at and after the rate of Two Shillings and Sixpence per ton; and further, if not removed after the expiration of twenty-four hours, at and after the rate of One Shilling per ton for every twenty-four hours or any part thereof: Provided, nevertheless, that if such articles be not removed from such station or terminus of their destination before the end of one week after their arrival there, the sum of Two Shillings and Sixpence per ton per week shall be charged and payable in respect of such goods for the warehouse room thereof.

Passengers' luggage.

12. Every passenger travelling upon the said railway may take with him his ordinary luggage, not exceeding one hundred pounds in weight for first-class passengers, and sixty pound in weight for other passengers, without any charge being made for carriage thereof.

Appropriation of tolls, &c.

13. All tolls, rents, dues, charges, and sums of money which may at any time be received and levied under authority hereof, and all rents to arise from any lease of the said railway, shall be, from time to time, in such manner as the Governor may prescribe, paid to the Treasurer for the public purposes of the said province.

Annual abstract of accounts to be published.

14. The said Commissioner shall, on or before the first day of August in every year, prepare an annual account in abstract of the total receipts and expenditure under authority hereof for the railway by this Act authorised to be constructed, from what source soever the same may be derived, for and during the preceding year ending the thirtieth day of June, under the several distinct heads of receipt and expenditure, with a statement of the balance of the same account duly audited and certified by the Treasurer, and also by the Auditor-General, and a copy of such account shall be published in the *Government Gazette*.

Exemption from rates.

15. The railway by this Act authorised to be constructed shall be, and is hereby declared to be, exempt from all rates and taxes whatsoever, whether local or general.

In the name and on behalf of Her Majesty, I hereby assent to this Act.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 227.

An Act to provide Funds to the amount of One Million
Three Hundred and Nineteen Thousand Eight
Hundred Pounds, for various Public Works, and
for other purposes.

[Assented to, November 18th, 1881.]

WHEREAS it is necessary to provide funds by loan for various public purposes—Be it Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the Province of South Australia, in this present Parliament assembled, as follows:

Preamble.

1. It shall be lawful for the Treasurer for the time being of the said province, from time to time, to issue and sell bonds for a sum not exceeding in the whole One Million Three Hundred and Nineteen Thousand Eight Hundred Pounds, for such amounts as he may deem expedient, and such bonds shall be in the form following, that is to say—

Treasurer may issue Bonds.

South Australian Government Revenue Securities.

Form of Bond.

No.	[Royal Arms.]	No.
(Authorised by Act of Parliament, No.		of 1881.)
£		£

I, the Treasurer of the Province of South Australia,
in consideration of the sum of
Pounds, paid to me for public purposes, do hereby
bind

The Public Purposes Loan Act.—1881.

bind myself to pay to the holder for the time being of this present obligation the sum of Pounds, and interest thereon at the rate of Four Pounds per centum per annum; such interest to be payable on the first day of April and the first day of October in every year, and the principal to be paid on the first day of _____, in the year one thousand nine hundred and _____
 Sealed with my seal. Dated the _____ day of one thousand eight hundred and _____

Signed, sealed, and delivered in }
 the presence of }

(Bond transferable by delivery.)

And the principal and interest shall be payable at the Treasury in Adelaide, or in London, at the office of the South Australian Government—the place of payment being declared at time of such sale and duly notified on the bonds.

Interest at four per cent.

When payable.

Application of moneys.

Redemption of bonds.

Salaries to be submitted to Parliament.

2. The said bonds shall bear interest at the rate of Four Pounds per centum per annum; and the interest and principal upon such bonds shall be paid to the holder thereof at such place and at such time as may be specified or provided therein: Provided that the principal shall not be payable or paid before the expiration of thirty years, and the time appointed for payment thereof shall not extend beyond fifty years from the time of the issue of the said bonds.

3. All sums of money raised and received by the Treasurer upon the securities of the said bonds shall be carried by him to separate and distinct accounts, and shall be applied to the several purposes set forth in the Schedule hereto, details of which are contained in Parliamentary Paper No. 188 of 1881, and to the extent therein set forth; and shall be so applied by the Treasurer in such amounts and manner as the Governor, by any warrant under his hand, countersigned by the Chief Secretary, may from time to time authorise and direct.

4. The Treasurer shall, and he is hereby required, in each and every half-year from the first raising of any sums of money under authority hereof, until the whole amount so raised, and all interest thereon, shall have been duly paid, to set apart such sum as shall suffice to pay the amount of bonds redeemable during the ensuing half-year, together with interest upon all bonds which shall then bear interest; and shall apply such sum in payment of such bonds and interest aforesaid, in manner specified in such bonds.

5. So much of the moneys raised under this Act as may be required for salaries of officers for the said public works hereby authorised to be constructed, shall be annually submitted to Parliament.
6. The

The Public Purposes Loan Act.—1881.

6. The Governor may from time to time, by warrant under his hand, countersigned by the Chief Secretary, authorise the Treasurer to advance and to pay to the proper Responsible Minister of the Crown, for the purposes of this Act, any sums of money not exceeding in the whole sum hereby authorised to be raised; and any sums of money so advanced and paid shall be retained by the Treasurer out of any moneys raised by him under the authority hereof. Advances.

7. The Treasurer shall, on or before the thirtieth day of September in each year, cause an account in abstract to be prepared of the whole receipts and of the expenditure of all moneys advanced to him for the purposes of this Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account duly audited and certified by the Auditor-General, and a copy of such account shall be forthwith published in the *Government Gazette*. Returns.

8. This Act may be cited as “The Public Purposes Loan Act, 1881.” Short title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULE

SCHEDULE REFERRED TO.

	£	s.	d.
Railways.....	608,532	0	0
Jetties.....	35,516	0	0
Lighthouses	8,477	0	0
Swing-Bridge, Port Adelaide	4,100	0	0
Waterworks	102,500	0	0
Harbor Improvements	82,000	0	0
Development of Interior by Sinking Wells, &c.	256,250	0	0
Detailed Examination of Province	5,125	0	0
Adelaide Sewers	102,500	0	0
Construction of Main Roads	102,500	0	0
Agricultural Farm and College	12,800	0	0
	£1,319,800	0	0



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 228.

An Act to adopt a certain Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance."

[Assented to, November 18th, 1881.]

WHEREAS it is doubtful whether the Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance," is in force in this province: And whereas it is desirable to set such doubts at rest—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the House of Assembly and Legislative Council of the said province, in this present Parliament assembled, as follows:

Preamble.

1. This Act may for all purposes be cited as "The Estates Tail Act, 1881."

Short title.

2. The said Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act for the abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance" is hereby declared to be in force in the said province.

Act 3 and 4, Wm. IV., c. 74, declared in force.

3. In

The Estates Tail Act.—1881.

Interpretation.

3. In the construction and for the purposes of the said Act, any mention of the Court of Chancery, His Majesty's High Court of Chancery, The Court of Common Pleas at Westminster, or any other superior court of law, shall be taken to apply to the Supreme Court of the said province; and any mention of the Lord High Chancellor of Great Britain, or any judge of any of the superior courts at Westminster, shall be taken to apply to a Judge of the said Supreme Court; and for the purposes of the said Act enrolment of any deed shall be deemed to be sufficiently performed when such deed shall have been deposited or enrolled in the General Registry Office, at Adelaide, in manner provided by the statutes in force relating to the deposit or enrolment of deeds in this province. In the case of land under the provisions of the Real Property Act, 1861, the Registrar-General shall, upon such deposit or enrolment, enter upon the folium of the register-book constituting the certificate of title of the land, a memorial of such deed.

Saving clause.

4. Nothing in this Act contained shall in any way affect an Ordinance, No. 15 of 1845, intituled "An Ordinance to render effectual conveyances by married women, and to declare the effect of certain deeds in relation to dower," or any provisions relating to settled estates or estates tail contained in any Act of Parliament for the relief of insolvent debtors for the time being in force in the said province.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 229.

An Act to authorise the Removal of a Swing-bridge
at present across the Creek at Port Adelaide,
and the Construction of another Swing-bridge
in lieu thereof, and for other purposes.

Title.

[Assented to, November 18th, 1881.]

WHEREAS the South Australian Company has erected a Swing-
bridge across portion of the public Creek at Port Adelaide,
and doubts have arisen as to the legality of such erection: And where-
as, to settle such doubts, and to give greater facilities of access to
persons and Companies owning wharves on and to ships navigating
the said Creek, it has been deemed expedient that the said bridge
be removed and a new bridge erected in lieu thereof—Be it there-
fore Enacted by the Governor of the Province of South Aus-
tralia, with the advice and consent of the Legislative Council and
House of Assembly of the said province in this present Parlia-
ment assembled, as follows:

Preamble.

1. The Commissioner of Public Works shall forthwith, after the
passing of this Act, cause the bridge heretofore erected across that
portion of the public creek at Port Adelaide, shown in the plan
deposited at the office of the Surveyor-General, at Adelaide, to be
removed, and a new bridge erected in lieu thereof, and upon such
removal the material so removed shall become the property of the
Government.

Power to erect bridge

2. Such bridge shall be of the dimensions and erected on the site
shown in the plan thereof, deposited in the said office of the
Surveyor

Dimensions of bridge

Port Adelaide Swing-bridge Act.—1881.

Surveyor-General, dated fourteenth of November, one thousand eight hundred and eighty-one, according to the specification, also deposited in the said office, and bearing the same date.

Bridge under control
of Marine Board.

3. Such bridge shall, when erected, be and continue the property of Her Majesty, Her heirs and successors, and shall be under the control of the Marine Board, who may make such regulations as may be necessary for fixing the time for the opening and closing, and generally for the management thereof.

Exchange of land.

4. For the purpose of forming a convenient road to the said bridge, that portion of the land at Port Adelaide, the property of the said South Australian Company, as shown in the said plan, and more particularly defined in the Schedule No. 1 hereto, is hereby declared a public road within the meaning of Act No. 17 of 1852, and "The Municipal Corporations Act, 1880:" And that portion of the land the property of the South Australian Company, as shown on the said plan, and more particularly defined in Schedule No. 2, is hereby vested in Her Majesty: And that portion of the land the property of the South Australian Company, as shown on the said plan, and more particularly defined in Schedule No. 4, is hereby declared to be the site for a public landing stair, and vested in the Corporation of Port Adelaide: And in exchange therefor that piece of land shown on the said plan, and more particularly defined in the Schedule No. 3 hereto, is hereby vested in the said Company in fee simple: And that piece of land on the said plan, and more particularly defined in the Schedule No. 5 hereto, is hereby declared to be a public road within the meaning of Act No. 17 of 1852 and "The Municipal Corporations Act, 1880."

Payment.

5. Within three months of the date of the contract for the construction of the said bridge the incorporated Companies, known as the Port Adelaide Dock Company, Limited, the said South Australian Company, and the Commercial Wharf Company, Limited, shall, if the total amount of such tender shall not exceed Twelve Thousand Pounds, jointly pay to the Treasurer of the said province two-thirds of the amount thereof, and should such tender exceed Twelve Thousand Pounds, the said companies shall then pay to the Treasurer the sum of Eight Thousand Pounds.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES.

Port Adelaide Swing-bridge Act.—1881.

SCHEDULES.

SCHEDULE No. 1.

Starting from a point 40 feet south of the wharf frontage, and in a line with the eastern boundary of Todd-street; thence continuing the said line for a distance of 144 feet; thence in a north-easterly direction for a distance of 203 feet to the face of the south abutment of the proposed bridge; thence following the face of the said abutment in a westerly direction for a distance of 40 feet; thence in a south-westerly direction for a distance of 24 feet; thence southerly for a distance of 20 feet; thence westerly for a distance of 14 feet, thence south-westerly for a distance of 23 feet; and thence westerly for a distance of 20 feet to the point of commencement.

SCHEDULE No. 2.

Starting from a point in the northern wharf frontage in a line with the western boundary of Fussell-street; thence in a southerly direction for a distance of 42 feet; thence easterly for a distance of 122 feet; thence north-easterly for a distance of 9 feet to the intersection with the line of water-way; thence northerly for a distance of 56 feet to the intersection with the wharf frontage; thence westerly along the said wharf frontage for a distance of 58 feet; thence south-westerly for a distance of 9 feet; thence westerly for a distance of 8 feet; thence northerly for a distance of 18 feet; thence westerly, following the curve at the back of the recess for the proposed bridge to the wharf frontage; and thence westerly along the said wharf frontage for a distance of 4 feet, to the point of commencement.

SCHEDULE No. 3.

Starting from a point in the wharf frontage and in a line with the western boundary of Todd-street; thence running in a southerly direction along the western boundary of the said street for a distance of 40 feet; thence easterly for a distance of 99 feet to the intersection with the eastern boundary of Todd-street; thence northerly and following the eastern boundary of the said street for a distance of 40 feet, to the intersection with the wharf frontage; and thence westerly along the said wharf frontage for a distance of 99 feet, to the point of commencement.

SCHEDULE No. 4.

Starting from a point in the wharf frontage 30 feet in an easterly direction from the north-east corner of portion No. 3; thence in a southerly direction for a distance of 20 feet; thence easterly for a distance of 14 feet; thence northerly for a distance of 20 feet to the intersection of the wharf frontage; and thence following the wharf frontage in a westerly direction for a distance of 14 feet, to the point of commencement. Site for landing stairs.

SCHEDULE

Port Adelaide Swing-bridge Act.—1881.

SCHEDULE No. 5.

Starting from a point in the northern wharf frontage in a line with the western boundary of Fussell-street; thence in a northerly direction, and following the line of the western boundary of the said street for a distance of 70 feet; thence easterly for a distance of 82 feet 6 inches to a point 30 feet south of the south-east corner of Fussell street; thence south-westerly for a distance of 56 feet; thence following the curve at the back of the recess for the proposed bridge to the intersection with the wharf frontage; and thence westerly along the said wharf frontage for a distance of 4 feet, to the point of commencement.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 230.

An Act to License Places of Public Amusement.

[*Assented to, November 18th, 1881.*]

WHEREAS it is expedient that places of public amusement Preamble.
should be licensed, and that the police should have at all
times access thereto—Be it therefore Enacted by the Governor of
the Province of South Australia, by and with the advice and consent
of the Legislative Council and House of Assembly of the said
province, in this present Parliament assembled, as follows:

1. "Place of public amusement" shall mean any theatre, concert Interpretation.
room, or dancing saloon, to which the public are admitted either on
payment of money or otherwise, not being an institute established
under the Suburban and Country Institutes Act, 1874, nor any
public building under the control of the Government, or any
Municipal Corporation, or District Council, or any incorporated
company or society.

2. After the passing of this Act no place of public amusement Places of public
amusement to be
licensed.
shall be open to the public unless a licence shall first have been
obtained in respect thereof, and no licence shall be granted for any
such place of public amusement unless and until proper means of
egress for the public in the case of fire shall have been provided.

3. The proprietor of every place of public amusement shall be Penalty.
liable to a penalty not exceeding Ten Pounds for every occasion on
which he shall open such place without such licence.

*Places of Public Amusements Act.—1881.***Fee.**

4. The annual fee in respect of such licence shall be the sum of Two Pounds, and shall be paid to the Treasurer.

**Licence to be issued .
by Treasurer.**

5. Such licence shall be in the form of Schedule B hereto, and may be issued by the Treasurer upon payment of the licence fee hereinbefore mentioned, and upon receiving the certificate of the Mayor of the Corporation of the municipality, when the place is within the limits of a corporation, or, when it is not so situate, of the Licensing Bench of the district in which, or nearest to which, such place is situate, in the form of Schedule A hereto, and every such licence shall continue in force until the thirtieth day of June next following the date thereof.

Supervision of police.

6. The police shall at all times have admission to every such place, and may arrest and remove therefrom any disorderly persons.

Offences.

7. The proprietor of every such place of public amusement shall be deemed guilty of an offence—

- i. If such proprietor shall permit idle or disorderly persons to assemble in such place of public amusement:
- ii. If such place of public amusement shall be conducted in a disorderly manner, or if any disorderly conduct is permitted therein:
- iii. If such proprietor obstructs any officer of the police in the execution of his duty at such place of public amusement, or refuses to produce his licence to any officer or constable of police:
- iv. If such proprietor sells, or permits to be sold, any liquor containing alcohol to be consumed on the licensed premises.

**Licence may be
cancelled.**

8. In addition to the penalty above provided for, the Court before which such information is heard may deprive such proprietor of his licence; and in such event such person shall not thereafter be competent to be granted any subsequent licence.

**Certain performances
may be prohibited.**

9. The Chief Secretary may prohibit in any building, room, or place licensed under this Act, the representation of any entertainment, or any public performance, or any parts of such entertainment or performance, that might provoke a breach of the peace, or is in violation of public decency or propriety, or dangerous either to the performer or to any other person, and every person who shall perform, or take part in, or permit any such representation or performance, so prohibited as aforesaid in any licensed premises, shall, for every such offence, forfeit and pay any sum not exceeding Fifty Pounds; and the licence for the building, room, or place wherein such offence shall have been committed, may, in the discretion of the Chief Secretary, be absolutely forfeited.

**Governor may make
regulations.**

10. The Governor may, by regulation in the *Government Gazette*, determine

Places of Public Amusements Act.—1881.

determine the mode in which licences shall be applied for, the hours at which such places of public amusement shall be open to the public, the ages at which persons shall be admitted to such places of public amusement, and generally the manner in which such places of amusement shall be conducted.

11. Every offence against this Act, or against any regulation made thereunder, shall be punishable by a fine not exceeding Ten Pounds, ^{Fines.} to be recovered in a summary way before a Special Magistrate or two Justices of the Peace.

In the name and on behalf of Her Majesty I hereby assent to this Act.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES REFERRED TO.

A.

Form of Certificate for a Licence for a place of Public Amusement.

I, the undersigned, [*the Mayor or Chairman of Licensing Bench's name*], of [*address*], do hereby certify that the proprietor of a building situate [*describe the locality*], which building is suitable for a place of public amusement, is a person of good fame and reputation, and fit to receive a licence for a place of public amusement.

Dated this day of , 188 .

[*Signature of the Mayor or Chairman
of Licensing Bench.*]

B.

Form of Licence for a place of Public Amusement.

WHEREAS A. B., of , being the proprietor of a place of public amusement situate [*describe the locality*], hath deposited in my office a certificate signed by the Mayor [*or Chairman of Licensing Bench, as the case may be*], and whereas the said A. B. hath paid into my office the sum of Two Pounds sterling as the fee for conducting such place of public amusement: Now, therefore, I, the undersigned, being the Treasurer of South Australia, do hereby license the said A. B. to use the premises situated as hereinbefore described as a place of public amusement. And this licence shall commence on the day of the issue hereof, and continue in force until the thirtieth day of June next, provided it be not forfeited in the meantime.

Given under my hand this day of 188 ,

C. D., Treasurer.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 231.

An Act to amend the "Civil Service Act of 1874."

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to amend the "Civil Service Act of 1874," in manner hereinafter provided—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. Clauses Nos. 15, 29, 30, 32 of Act No. 3, 1874, are hereby **Repeal.**
repealed.

2. The Responsible Minister of any Department may, at such times as he may deem convenient, grant to any officer leave of absence for recreation not exceeding in the whole two weeks in each year; and in cases of illness or other pressing necessity, such extended leave not exceeding two months, and on such terms as he may think fit.

Leave for recreation not more than two weeks; in case of sickness not more than two months.

3. The Governor may grant to any officer in the Civil Service, of at least ten years' continuous service, not exceeding eight months' leave of absence on half salary, or, at his option, four months' leave of absence on full salary, or if of twenty years' continuous service, eight months' leave of absence on full salary; and in cases of illness or other pressing necessity, such extended leave, on such terms as he may think fit: Provided that nothing herein contained shall prevent the Governor, in case of pressing necessity, from granting leave of absence to any officer of lesser period of service for any time not exceeding six months.

Officer of not less than ten years' service may have leave for eight months.

Allowance

Civil Service Amendment Act—1881.

Allowance on retirement or death:

Officers on death, removal, or resignation from office to receive one month's salary for every year up to the thirty-first December, 1881, and interest thereafter.

4. The legal personal representative of every officer in the Civil Service at the time of the passing of this Act who may hereafter die while in such Service, although his death may have occurred or may occur during the absence of such officer on leave, and every officer in the Civil Service on being removed from, or on being permitted to resign, his office on account of illness, infirmity, age, abolition of office, or any other cause whatever, except misconduct or pecuniary embarrassment, shall, with the consent of the Governor, be entitled to and shall be paid by the Treasurer a sum equal to one month's salary for every year, and a proportionate sum for any period less than a year, that any such officer may have served in the Civil Service until the thirty-first December, one thousand eight hundred and eighty-one, together with interest at the rate of four per centum per annum on the total amount so payable from the said thirty-first December until such death, removal, or resignation; and the average salary received by any such officer during the three years next preceding such date aforesaid shall be taken as the salary of such officer for the purpose of calculating the amount to be paid by the said Treasurer as aforesaid: Provided that this clause shall not apply to any officer who shall be permitted to resign his office, except upon a medical certificate of illness or infirmity, before he shall have attained the age of sixty years, or have been twenty years in the Civil Service: Provided also that the amount payable under this clause shall in no case exceed the amount that would have been payable had this Act not been passed.

Not to resign without medical certificate, unless sixty years of age or twenty years in service.

Officer may retire within six months from passing of the Act.

5. Any officer in the Civil Service at the time of the passing of this Act being desirous of resigning his appointment, may, within six months of the date of this Act coming into operation, retire from the Civil Service; and shall, with the consent of the Governor, be entitled to, and be paid by the Treasurer, notwithstanding any provisions contained in the preceding clause of this Act as regards length of service, a sum equal to one month's salary for each year, and a proportionate sum for any period less than a year that any such officer may have served in the Civil Service: Provided that no officer so resigning shall be afterwards eligible for appointment in any office in the Civil Service, unless he shall have first repaid to the Treasurer the amount received by him under this clause.

Short title.

6. This Act may be cited as the "Civil Service Amendment Act, 1881."

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 232.

An Act to repeal the “Insolvency Act, 1880,” and to
amend the Law of Insolvency, and for other
purposes.

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to repeal the “Insolvency Act, 1880,” and to amend the law relating to insolvency—Be it therefore Enacted by the Governor of the Province of South Australia, by and with the consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

Preamble.

1. This Act may be cited for all purposes as the “Insolvency Act, 1881,” and shall come into operation on a day to be fixed by the Governor, by Proclamation to be published in the *Government Gazette*.

Short title and
commencement.

2. This Act and “The Insolvent Act, 1860,” and other enactments amending the same and not hereby repealed, shall be incorporated and read and construed together as one Act.

Incorporation.

3. In this Act, unless inconsistent with the context—

Interpretation.

“Trustees” means the persons chosen by the creditors of an insolvent at the first or some other sitting under his insolvency, or some adjournment thereof, as trustees of the insolvent’s estate and effects, when such choice shall have been confirmed by the Court; and means as well the trustees first appointed as any trustees appointed on the death or removal of any first or subsequent trustees :

“Principal

Insolvency Act.—1881.

“Principal Act” means “The Insolvent Act, 1860,” and shall also include the enactments amending the same and not hereby repealed, and also Part II. of Act No. 195 of 1880, intituled “An Act to extend the Jurisdiction of Local Courts”:

“Insolvency petition” means a petition for an adjudication of insolvency by or against a debtor under the principal Act.

Repeal.

4. (1.) The Acts mentioned in the following table are hereby repealed to the extent there indicated—

Reference to Act.	Title of Act.	Extent of Repeal.
16 of 1860	The Insolvent Act, 1860	Sections numbered 169, 192, 193, and 194.
185 of 1880	Insolvency Act, 1880	The whole.

(2.) The fourth section of “The Insolvency Act, 1880,” shall not be deemed to have had the effect of repealing the enactments therein referred to:

(3.) The forty-fifth section of “The Insolvent Act, 1860,” is hereby revived:

(4.) The repeal effected by this Act shall not affect—

(a.) Anything done or suffered before the coming into operation of this Act:

(b.) Any right or privilege acquired or duty imposed, or liability or disqualification incurred, under any enactment so repealed:

(c.) Any fine, forfeiture, or other punishment incurred, or to be incurred, in respect of any offence committed, or to be committed, under any enactment so repealed:

(d.) The institution or continuance of any proceeding or other remedy, whether under any enactment so repealed or otherwise, for ascertaining any such liability or enforcing or recovering any such fine, forfeiture, or punishment as aforesaid:

(5.) Notwithstanding the repeal effected by this Act the proceedings under any insolvency, deed of assignment, or composition with creditors under the provisions of the principal Act, pending at the time of the coming into operation of this Act shall, except so far as any provisions of this Act are expressly applied to pending proceedings, continue as if this Act had not been passed.

Jurisdiction of
Supreme Court.

5. All powers, authorities, and discretions, vested in and exercised by the Court or Commissioner of Insolvency by virtue of the principal

Insolvency Act.—1881.

principal Act, or this Act, and the general rules therein or herein referred to, shall during such time, and so often as there shall be no Commissioner of Insolvency, be vested in and exercisable by any Judge of the Supreme Court of the said province.

6. In addition to the acts of insolvency mentioned in the principal Act the following shall be acts of insolvency, namely, that execution issued against a debtor on any legal process for the purpose of obtaining payment of a judgment against him of not less than Twenty Pounds has been levied by seizure or sale of his goods, or that any such execution has been returned unsatisfied to the extent of Twenty Pounds or upwards, or that at a meeting of his creditors or some adjournment thereof under the twenty-fourth section of this Act the resolution provided in that section was not carried, or, if carried, that the deed was not executed pursuant to such resolution: Provided that an insolvency petition be presented against or by the debtor within four weeks after the date of such sale or unsatisfied execution, or of such meeting or adjournment

Additional acts of insolvency.

7. The office of Official Assignee is hereby abolished. The Governor shall appoint an officer of the Court of Insolvency to be styled the Official Receiver, whose duties shall be as follows—

Official Receiver and his duties.

- (1.) To investigate and report to the Court upon the accounts of the trustees under every insolvency:
- (2.) To act as sole trustee of every insolvent estate in cases where no trustee is appointed at the instance of the creditors, and in such case the principal Act shall be read and construed as if the words "Official Receiver" were inserted therein in lieu of the word "assignees" wherever the same occurs, unless such substitution shall conflict with this Act:
- (3.) To issue forms of proxy to be used by creditors:
- (4.) To perform all other duties imposed on him by this Act.

The Official Receiver shall also have and exercise all powers and authorities, and perform all duties, and be subject to all liabilities, vested in and imposed on the Official Assignee by the principal Act, except where the same shall be varied by this Act; and the principal Act shall be read and construed as if the words "Official Receiver" were therein inserted in lieu of the words "Official Assignee" wherever the same occur unless such substitution shall conflict with this Act.

8. (1.) The duties heretofore performed by assignees generally under the principal Act in regard to the sale, realisation, and getting in of the estate of any insolvent, shall in future be performed by one or more trustees who shall themselves be creditors, and who may be chosen by the creditors in the same manner as creditors' assignees under the

Duties of trustees and their remuneration.

Insolvency Act.—1881.

the principal Act; and all provisions as to choice of creditors' assignees, and confirmation of such choice by the Court contained in the principal Act, shall apply to the choice of trustees by creditors, and confirmation of such choice by the Court.

- (2.) Such trustees when appointed, and the appointment is confirmed by the Court, shall in all matters and things under the insolvency have the same powers, authorities, discretions, and duties as assignees generally under the principal Act, excepting such of the said powers, authorities, discretions, and duties as are hereby conferred or imposed on the Official Receiver, and shall also have and perform the further powers, authorities, discretions, and duties conferred and imposed upon them by this Act; and wherever such trustees shall be appointed, and the appointment is confirmed by the Court as aforesaid, the principal Act shall be read and construed as if the word "trustees" was inserted therein in lieu of the word "assignees" wherever the same occur, unless such substitution shall conflict with this Act; such trustees shall give security in such amount and in such manner as the Court shall in each case determine, and that such security shall be for the proper discharge of their duties as trustees:
- (3.) Such trustees shall be liable to removal by the Court, and new trustees may be appointed in the same manner and under the same circumstances as creditors' assignees under the principal Act, and the trustees for the time being shall obey all orders of, and in all respects be, under the control of the Court:
- (4.) The remuneration of the trustees for their services under any insolvency shall be fixed by a majority of the creditors present in person, or by proxy, at any meeting of the Court for the purpose of declaring a dividend, as provided in the principal Act: Provided that such remuneration may exceed the two and a half per cent. limited by the principal Act, but shall not be greater than five per cent. upon the amount applicable for dividend, and that the remuneration so fixed shall be subject to the approval of the Court.

Schedule to be filed
six days before first
hearing.

9. Not later than six days before the first public sitting under the insolvency, or such extended time as the Court may for special reasons allow, the insolvent shall file in Court a schedule which shall set out, as far as practicable, the particulars of his assets and liabilities, the names, residences, and occupations of his creditors, and the securities held by them respectively, and the value at which he estimates their securities, and the dates on which such securities were respectively given, and the amount provable after deducting such value. The schedule shall be signed by the insolvent and
verified

Insolvency Act.—1881.

verified by his affidavit, or that of someone else able to depose thereto. Any insolvent failing to file the above schedule shall be deemed guilty of contempt of Court.

10. The Official Receiver shall send by post, notice, written or printed, of the time of the first public sitting under the insolvency to all the creditors, so far as known to him, three days before such sitting.

Notice to be given to creditors of first Sitting.

11. (1.) The Court may, at any public sitting under an insolvency, with the consent of a majority in number, and three-fourths in value of the creditors present thereat, in person or by proxy, order that a composition be accepted in satisfaction of the debts due to them from the insolvent, or that a scheme of arrangement of the insolvent's affairs be approved: Provided that, if a composition, the same shall not be less than Five Shillings in the Pound:

Composition on debts, or scheme of arrangement of insolvent's affairs, may be accepted.

(2.) Such order shall not be made unless there has been circulated among the creditors, not less than three days before the meeting at which it is to be passed, a notice stating generally the terms of the proposal for the composition or scheme:

(3.) Creditors whose debts do not amount to Five Pounds shall not be reckoned in number under this section:

(4.) On the application for such order the Official Receiver shall report as to the composition or scheme, and if the Court is of opinion that the same is not reasonable, or not calculated to benefit the general body of creditors under the insolvency, or that the insolvent has committed any such misconduct as would justify the Court in refusing a second-class certificate without suspension, the Court may refuse to order that the composition be accepted, or the scheme be adopted, but otherwise shall make such order:

(5.) A composition or scheme so ordered by the Court shall be binding on all the creditors, so far as relates to any debts due to them and provable under the insolvency:

(6.) The order of the Court shall be conclusive as to the validity of the composition or scheme, and shall, unless otherwise provided in such order, vest all the property of the insolvent, real or personal, in the persons and on the conditions mentioned in such order, and any such order vesting any real estate of the insolvent in any such persons shall be deemed a transfer of the same within the meaning of the Real Property Act, or any other Acts for the time being regulating the transfer of real property, and shall entitle the person in whom the same is so vested to become the registered proprietor thereof:

(7.) The provisions of any composition or scheme under this section

Insolvency Act.—1881.

section may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of an order of the Court made on the motion shall be deemed a contempt of Court:

- (8.) If the insolvent makes default in payment of any sum due by him in pursuance of a composition or scheme under this section, the Court shall, on application by the person to whom the sum is due, order that the insolvency be revived, and thereupon the insolvency shall be revived, and continue as if the composition or scheme had not been approved.

Proxies.

- 12.** (1) Every proxy for the purpose of proceedings under an insolvency petition shall be in a form issued by the Official Receiver, and stamped as such:
- (2.) A proxy shall not be available except for the purpose of voting at a specified sitting of the Court, or at any adjournment thereof:
- (3.) Not more than one form of proxy shall be issued to the same creditor for the same meeting:
- (4.) A person shall not be appointed as proxy for a creditor if he is solicitor for the insolvent, or a partner with or a person in the employment of the insolvent's solicitor:
- (5.) The holder of a proxy shall not use it for the purpose of voting for the appointment of himself as trustee unless he is specially authorised to do so by the instrument of proxy:
- (6.) A creditor may appoint the Official Receiver as his proxy.

Estate to vest in Official Receiver or trustees.

- 13.** (1.) The real and personal property constituting the estate for distribution among the creditors of an insolvent shall, until the appointment of trustees, vest in the Official Receiver, and on such appointment vest in the trustees only, and such trustees shall hold such estate upon trust to realise the same for distribution among the creditors of the insolvent according to the law of insolvency:
- (2.) If no trustees shall be appointed the estate shall remain vested in the Official Receiver alone upon the like trust; and should the trustees die or be removed, the estate shall re-vest in the Official Receiver upon the like trusts, and the Court shall make order accordingly:
- (3.) All moneys arising from the realisation of the estate shall be paid into Court by the trustees within ten days after receiving the same, together with a full statement of account relating thereto, who shall give the Official Receiver such further information with reference thereto as he may require; and any trustee retaining in his hands any such money exceeding the sum of Twenty Pounds

Insolvency Act.—1881.

Pounds for a period exceeding ten days, or failing to furnish such account, or failing to furnish the Official Receiver with such information with reference thereto as he may require, shall suffer the following consequences, that is to say—

- (a.) He shall pay interest at the rate of Twenty Pounds per centum per annum on the amount of such moneys so retained by him, and such interest shall be deemed to be portion of the estate for which such trustee is liable to account:
- (b.) Unless he can prove to the satisfaction of the Court that his reason for retaining the money was sufficient, he shall, on the application of any creditor, be dismissed from his office by the Court, and shall have no claim for remuneration, and be liable for any expenses the creditors may have been put to by reason of his dismissal, and shall also be liable, on the order of the Court, to pay into Court, to the credit of the estate, a sum not exceeding One Hundred Pounds for every such default:
- (4.) The trustees, in realising the estate shall, as far as practicable, consult the wishes of the creditors thereon, and for that purpose may summon meetings of the persons claiming to be creditors, and shall at all times furnish the Official Receiver with such information and particulars relating to the estate as the Official Receiver shall require:
- (5.) All provisions contained in the principal Act, as to audit of accounts and making of dividends, shall apply to the accounts of the Official Receiver and the trustees, and the moneys under their control respectively, and the statement upon oath, to be delivered under the one hundred and sixty-first section of "The Insolvent Act, 1860," shall be made and delivered jointly by the Official Receiver and trustees when trustees have been appointed.

14. At any public sitting under the insolvency for the purpose of appointing trustees, or deciding upon the acceptance or otherwise of a composition, or any scheme, creditors may be present and vote either in person or by proxy: Provided that—

Votes of creditors
meetings.

- (1.) A person shall not be entitled to vote as a creditor unless he shall have proved, or shall at such sitting of the Court prove, a debt that is due to him:
- (2.) A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained:
- (3.) A secured creditor shall, for the purpose of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security ;
and

Insolvency Act.—1881.

and the amount of such balance shall, until the security be realised, be determined or assessed by the Court. He may, however, give up or abandon the security, and thereupon he shall rank as a creditor in respect of the whole sum due to him :

- (4.) A creditor shall not vote in respect of any current bill of exchange or promissory note held by him under discount, unless he is willing to treat the liability of every person who is liable thereon antecedently to the debtor, and whose estate is not in course of administration under this Act, as security in his hands, and to estimate the value thereof and deduct the same from his proof, in which case he shall, on application being made by any person interested, give up such security for the benefit of the creditors of the debtor upon payment of such estimated value: Provided always that such estimate (except so far as the creditor may receive any payment as aforesaid in respect thereof) shall not prejudice the right of such creditor to receive from the estate of the debtor a dividend upon the whole amount of such bill or note.

Adjournment of last examination and insolvent's certificate.

15. The insolvent shall not be entitled to pass his last public examination until such time as the estate shall have been realised and distributed among the creditors; but the Court may, on being satisfied that the insolvent has duly surrendered his property, and that there is no further occasion for the insolvent's services in the insolvency, conclude the examination, and make such order as to granting the insolvent a certificate as the Court may think fit: Provided that after the day appointed for the last examination of the insolvent he shall be free from arrest at the suit of his creditors, or the trustees of his estate, or the Official Receiver unless the Court shall otherwise order.

Adjudication in case of alien or lunatic member of a firm.

16. (1.) When an adjudication of insolvency has been made against a member or members of a firm, and any other member of the same firm is out of the said province, or of unsound mind (whether so found by inquisition or not), the Court shall have jurisdiction without adjudging him an insolvent, and on proof to the satisfaction of the Court that the firm are unable to pay their debts as they become due, to make order in insolvency for the administration, according to the law of insolvency, of the joint property of the members of the firm :

(2.) On the order being made, the property of the firm shall vest and be administered as if an insolvency petition had been presented and an order of adjudication made in the first instance against all the members of the firm.

Registered bills of sale protected.

17. Goods and chattels comprised in any duly registered bill of sale, the consideration for which shall have been an advance or loan made
or

Insolvency Act.—1881.

or agreed to be made at the time of the execution thereof, and in any bill of sale registered not less than ninety days before the date of the act of insolvency upon which an insolvency petition against any debtor shall be founded, shall not be deemed goods and chattels in the ostensible possession of such debtor at the time of committing such act of insolvency.

18. All summonses, orders, and other instruments, the forms whereof are contained in the schedules to the principal Act, and which, under such Act, are required to be signed by the Commissioner, may be signed by the Official Receiver or the Registrar of the Court, and when so signed shall be of the same force and effect as if signed by the Commissioner.

Summonses and orders may be signed by Official Receiver or Registrar.

19. Any surety proposing to enter into a recognizance, as provided by the sixtieth section of "The Insolvent Act, 1860," may enter into and acknowledge the same before the Official Receiver or Registrar of the Court, or before any Special Magistrate or Justice of the Peace for the said province, and the same shall thereupon be of the like validity, force, and effect as if such recognizance had been entered into before the Court itself, and the form of recognizance contained in the Schedule Q to the said Act may be altered accordingly.

Recognizances may be taken before Official Receiver, Registrar, or Special Magistrate, or Justice of the Peace.

20. In addition to the offences enumerated in the one hundred and twenty-fifth section of "The Insolvent Act, 1860," the following shall be an offence thereunder, that is to say—the pawning, pledging, or disposing of by the insolvent, otherwise than in the way of his trade, any property which he has obtained on credit and has not paid for, unless the Court is satisfied that he had no intent to defraud: and the principal Act shall be read and construed as if such additional offence were therein inserted.

Insolvent fraudulently disposing of property

21. If any insolvent, with intent to defraud, shall, after or within four months before the adjudication, quit the said province, and take with him, or attempt to make preparation for quitting the said province, and for taking with him any part of his property to the amount of Ten Pounds or upwards, which ought by law to be divided amongst his creditors, he shall be guilty of felony, punishable with imprisonment for a term not exceeding two years, with or without hard labor.

Penalty for absconding with property.

22. The Court fees payable under the principal Act shall in future be reduced by one-half.

Reduction of Court fees.

23. (1) The trustee of every deed made or purporting to be made in pursuance of Division VI. of the Insolvent Act, 1860, shall open a banking account in the name of the trust estate with some incorporated bank, and shall pay into such account all moneys payable by such trustee on account of the trust estate, and shall pay all moneys payable

Trustees of assigned estates to pay balances into Court.

Insolvency Act.—1881.

payable by such trustee on account of the trust estate, by cheques drawn on such account, and no trustee shall at any time keep in his hands any sum exceeding Twenty Pounds for more than ten days :

- (2.) The trustees of all such deeds made or purporting to be made more than twelve months before the passing of this Act shall, on the application of the Official Receiver, at the request of any creditor, forthwith pay into Court, and the trustees of all such deeds made within such twelve months, or after the passing of this Act, shall, at the expiration of twelve months from the making thereof on the like application, pay into Court all moneys in their hands or to their credit belonging to the assigned estate, and every such trustee retaining any such moneys in his hands or under his control in contravention of this section for a period of one month after such application, and every trustee retaining money in his hands in contravention of the last subsection, shall be subject to the like penalties as if he had been a trustee under this Act and failed to pay moneys in his hands into Court pursuant to the third subsection of the thirteenth section of this Act :
- (3.) Out of the moneys so paid in the Official Receiver shall, on the order of the trustee, pay any disbursements that it may be necessary to make on account of the estate :
- (4.) Previously to declaring a dividend among the creditors in any such assigned estate in respect of the money so paid into Court the trustee shall file in Court a dividend-sheet, showing the amount of the dividends due to the respective creditors, and the Official Receiver shall thereupon, on application by such creditors, pay to them the amounts appearing to be due to them by such dividend-sheet, providing the full amount of such dividend does not exceed the amount paid in as aforesaid and available for such purpose. The provisions in the principal Act as to unclaimed dividends shall apply to dividends under this section which shall be unclaimed for the time mentioned in such Act :
- (5.) It shall be the duty of the Official Receiver to enforce the observance by trustees of the provisions of this section.

Provisions as to deed
of assignment.

- 24.** (1.) Notwithstanding anything to the contrary in the principal Act, no deed of assignment hereafter made in pursuance of Division VI. of the "Insolvent Act, 1860," shall have any force or effect, and such deed shall be deemed fraudulent and void and an act of insolvency, unless before the execution thereof by the debtor a meeting of the creditors of such debtor shall have been held, and a resolution carried thereat that the debtor shall execute such deed:

2. Such

Insolvency Act.—1881.

- (2.) Such meeting shall be called by the debtor by written or printed circular, delivered or posted to the residence or place of business of each of his creditors, not less than three nor more than ten days before the day of meeting, and shall be held at a place and time convenient to the majority in value of the creditors :
- (3.) The creditors present at such meeting shall elect a chairman :
- (4.) The debtor shall attend such meeting, and submit a statement in writing of his assets and liabilities, and if in such statement he shall make any wilful and material error or omission he shall be deemed guilty of a misdemeanor :
- (5.) Three-fourths in value and one-half in number (no creditor whose debt does not exceed Five Pounds being reckoned in number) of the creditors present in person or by proxy at such meeting may thereupon resolve that the debtor execute a deed of assignment to the person or persons in such resolution mentioned, under the provisions of Division VI. of the Insolvent Act, 1860. In the event of any dispute as to the amount of the debt due to such creditors or any of them, the chairman shall, for the purpose of such meeting and the resolution hereinafter provided, determine the amount thereof; the Chairman shall also, at such meeting determine, and his decision, if *bonâ fide*, shall be final, whether or not the meeting has been held at a time and place convenient to the majority in value of the creditors :
- (6.) The Chairman shall thereupon make a minute of such resolution, and shall forward a certificate to the Court of Insolvency in the form in the schedule to this Act, and such certificate (in the absence of fraud) shall be conclusive evidence that such meeting was duly convened and held and the resolution duly carried :
- (7.) Should no such resolution be carried at the said meeting, or if the majority of the creditors present adjourn the meeting at some adjournment thereof, or, if the resolution be carried, should the debtor fail to make and execute such deed within seven days of such resolution, the debtor shall, unless the majority in value of such creditors shall at such meeting have resolved otherwise, be deemed to have committed an act of insolvency on the first day on which such meeting was held :
- (8.) The Court of Insolvency, or any Local Court of Insolvency, may, after the delivery or posting of the said circulars, or any of them, on the application of the debtor or any creditor, restrain further proceedings in any action, execution, or other legal process in respect of any debt which, if the debtor were adjudged insolvent, would be provable under

Insolvency Act.—1881

under such insolvency until such meeting can be held and deed executed, or may allow such proceedings, whether commenced before or after the delivery or posting of such notices, or any of them, to proceed upon such terms as it may think just.

Power to order repayment of unclaimed dividends.

25. The Court may order that any unclaimed dividend which, by virtue of the provisions of any Act, shall at any time have been paid to the Treasurer for the public use of the said province, shall be paid to any person to be named in such order, and, upon the presentation of such order, the Treasurer may pay the same accordingly out of the public revenue of the said province.

Definition of term "Bill of Sale."

26. The expression "Bill of Sale," whenever used in the Act No. 8 of 5th Victoria, or any Act amending the same, or in the principal Act, and in this Act, shall include bills of sale, assignments, transfers, declarations of trust without transfer and other assurances of personal chattels; and also powers of attorney, authorities, or licences to take possession of personal chattels as security for any debt, but shall not include the following documents, that is to say:—Assignments for the benefit of the creditors of the person making or giving the same, marriage settlements, transfers or assignments of any ship or vessel, or any share thereof, transfers of goods in the ordinary course of business of any trade or calling, bills of sale on goods in foreign parts or at sea, bills of lading, warehousekeepers' certificates, warrants or orders for the delivery of goods or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise either by indorsement or by delivery, the possession of such document to transfer or receive goods thereby represented.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULE.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 233.

An Act to provide for Regulating the Testing and
Stamping of Meters used in the Sale of Gas,
and for Testing the Quality of Gas sold, and
for other purposes.

[Assented to, November 18th, 1881.]

WHEREAS it is expedient that the measurement used in sales of Preamble.
gas for lighting, heating, and other purposes should be here-
after regulated by one uniform standard, and that all meters should
be stamped as hereinafter provided, and that consumers of gas should
have a means of testing the quality of gas supplied—Be it therefore
Enacted by the Governor of the Province of South Australia, with
the advice and consent of the Legislative Council and House of
Assembly of the said province, in Parliament assembled, as follows:

1. This Act may be cited as “The Meters and Gas Act, 1881.” Title.

2. This Act is divided into three parts, as follows:—

Division of Act into
parts.

PART I.—Relates to Testing and Stamping of Meters.

PART II.—Relates to Testing and Quality of Gas.

PART III.—Definitions.

PART I.

3. After the passing of this Act the only legal standard or unit Fixing unit of
of measuring for the sale of gas by meter shall be the cubic foot, measure.
containing 62·321 pounds avoirdupois weight of distilled or rain
water

*The Meters and Gas Act.—1881.***PART I.**

water weighed in air at the temperature of sixty-two degrees of Fahrenheit's thermometer, the barometer being at thirty inches, except as relates to contracts made before the passing of this Act by which a different unit of measure is adopted, which contracts shall not be renewed:

Models of measures to be made and verified under the direction of the Commissioner Crown Lands.

4. Within six months next after the passing of this Act models of gasholders measuring the said cubic foot, and such multiples and decimal parts of the said cubic foot as the Commissioner of Crown Lands for the time being shall judge expedient; and from time to time, after the expiration of the aforesaid period of six months, models of such further multiples and decimal parts of the said cubic foot as the Commissioner shall from time to time think expedient shall be carefully made with proper balances, indices, and apparatus for testing the measurement and registration of meters; and such models shall be verified under the direction of the said Commissioner, and when so made and verified shall be deposited in the Surveyor-General's Office in Adelaide, and copies of the models so from time to time deposited, verified as aforesaid, shall be sent to the Mayor of Adelaide and the Mayors of such municipalities as the aforesaid Commissioner may from time to time direct; and the said Commissioner of Crown Lands shall appoint a competent person or persons to design and make, subject to approval and by the direction of such Commissioner, stamps of a uniform design, to be used for stamping meters throughout the province, with only such variations of numbers or marks thereon as shall be sufficient to distinguish each inspector's municipality or district

Models to be deposited.

Council may appoint inspectors of meters.

5. It shall be lawful for the Council of any municipality to appoint an inspector of meters at such salary and for such terms as to such Council shall seem fit.

Officers in the Surveyor-General's Office to stamp copies of models.

6. The copies of the said models so directed by the said Commissioner to be verified and stamped at the Surveyor-General's Office shall be compared with the models deposited with the Surveyor-General as aforesaid, and if correct shall be verified and stamped by some officer duly authorised by the Surveyor-General.

Expense of providing copies of models and remuneration of inspectors.

7. The expense of providing and transmitting such copies of models of gasholders, with proper balances, indices, and apparatus aforesaid, and of the stamp to be used by the inspectors, and the remuneration which shall be paid to the inspectors shall be paid out of the lighting rate raised in such municipality applicable to lighting purposes; and if no such rates are imposed, then out of the general fund raised by the municipality.

No maker or seller of meter, or person in the service of any gas company or manufacturers of meters or gas, to be an inspector.

8. No maker, repairer, or seller of meters or of gas, or persons employed in making, repairing, or selling of meters or gas shall be an inspector of meters under the provisions of this Act; and every inspector shall forthwith enter into a bond or recognizance to the Council or body appointing him, to be sued for in any Court of Record

The Meters and Gas Act.—1881.

Record having jurisdiction, in such sum and either with or without surety or sureties as the Council by whom he may have been appointed shall fix for the due and punctual performance of the duties of his office, and for the due and punctual payment at such time or times as he may be directed by the Council by whom he may have been appointed, of all fees received by him under the authority of this Act, and for the safety of the said copies of models and stamps committed to his charge, and for their due restoration and surrender to such person or persons as may be appointed to receive them by the Council aforesaid immediately on his removal or other cessation from office.

PART I.

Inspector to enter
into recognisance.

9. The Council shall determine and appoint on what days, what hours, and what places each and every inspector shall attend with the said copies of models and stamps in his custody at each of the several places within their jurisdiction as they shall deem expedient, and every such inspector so attending shall examine, test, and, if found correct, stamp all such meters as shall be required under the provisions of this Act to be so examined, tested, and stamped, and shall deface or destroy the stamps of any meter tested and found incorrect under the provisions of this Act; and he shall keep a book wherein he shall enter minutes of all such examinations and testings, with the numbers of identity and capacity marked by the manufacturer on such meters, and give, if required, a certificate under his hand of every such stamping and defacing; and every inspector shall twice in every week account to the treasurer of the municipality or the person for the time being acting as treasurer, or to any such other person as shall be duly authorised by those by whom he may have been appointed, for all fees received by him under this Act, and shall pay the amount thereof to such treasurer as aforesaid, who shall account for the same.

Inspector to attend
at places where gas
is consumed when
required by the
Council.

Inspector to pay fees
to the treasurer of the
municipality.

10. No meter duly stamped under authority of this Act shall be liable to be restamped, although the same be used in another place than that at which the same was originally stamped, but shall be considered as a legal meter, unless found to be incorrect within the meaning of this Act.

Meters when stamped
need not be restamped.

11. In case any inspector of meters shall stamp any meter without duly testing and finding the same to be correct, or shall refuse, or for three days after being so required under the provisions of this Act neglect, without lawful excuse, to test any meter, or to stamp any meter found to be correct on being so tested, or shall be guilty of a breach of any duty imposed upon him by this Act, or shall otherwise misconduct himself in the execution of his office, every such offender shall, upon conviction, forfeit a sum not exceeding Five Pounds for every such offence.

Penalty on inspector
for misconduct.

12. No meter shall be stamped which shall be found by the inspector to register, or be capable of being made by any contrivance for that purpose, or by increase or by decrease of the water in such meter

Meters not to be
stamped if more than
two per cent. incorrect
in favor of the seller,
or three per cent. in

*The Meters and Gas Act.—1881.***PART I.**

favor of the buyer,
and to be stamped if
erroneous to no
greater extent.

Certain meters in-
correct against the
seller of gas may be
used by agreement.

Rules for testing
meters.

meter, or by any other means practically prevented in good meters, to register quantities varying from the true standard measure of gas more than two per centum in favor of the seller, or three per centum in favor of the consumer; and every meter, whether stamped or unstamped, which shall be found by such inspector to register, or to be so capable of being made to register, quantities varying beyond the limits aforesaid, shall be deemed incorrect within the meaning of this Act; and every meter which shall be found by such inspector to measure and register quantities accurately or not varying beyond the limits aforesaid, and shall be found incapable by any such means as aforesaid of being made to register quantities varying beyond the limits aforesaid, shall be considered to be correct, and be stamped as aforesaid in such manner and on such part of the meter as shall be specially directed by the authority appointing him, or, in default of such directions, as shall in his opinion prevent fraud: Provided always that every meter bearing a measuring capacity at one revolution, or complete action of the meter of not less than five cubic feet, and having prominently marked upon it in some conspicuous place the words "without float," shall be stamped by the inspectors if found correct within the meaning of this Act in all other respects except that it is capable of being made by abstraction of water to register incorrectly against the seller of gas; but it shall not be lawful after the time aforesaid to use in the sale of gas any such meter when so stamped by the inspector except by written agreement between the buyer and seller specifying that this description of meter shall be used.

13. The following rules shall be observed by the inspectors in testing meters under the provisions of this Act—Firstly, the meter shall be tested for soundness or leakage only, and not for percentage of error, when fixed on a horizontal base, and with gas under a pressure equal to a column of water three inches high with a light or lights consuming not more than one-twentieth part of its measuring capacity per hour marked thereon, nor less than one-half of a cubic foot per hour for all meters of a measuring capacity not exceeding one hundred cubic feet per hour, and not more than one-fortieth part of its said measuring capacity per hour for all meters of any greater measuring capacity per hour than one hundred cubic feet; and all meters found to work under such test shall be deemed sound meters, and any meters found not to work under such test shall not be stamped. The meter to be tested for percentage of error shall be fixed on a horizontal base, and shall be tested at a pressure equal to a column of water five-tenths of an inch high, and passing the quantity of gas or atmospheric air per hour which shall be marked thereon as its measuring power per hour; and the water used in such testing, and the air of the room in which such testing shall be made, shall be as nearly as practicable of the same temperature as the gas or air passed through the meter.

14. If any person or persons shall make, except under the authority of this Act, or forge or counterfeit or cause or procure to be

The Meters and Gas Act.—1881.

be made, except as aforesaid, or forged or counterfeited, or knowingly act or assist in the making, except as aforesaid, or forging or counterfeiting any stamp or mark, which may be hereafter used for the stamping or marking of any meter under this Act, every person so offending shall, for every such offence, forfeit, on conviction, a sum not exceeding Fifty Pounds nor less than Ten Pounds; and if any person shall knowingly sell, utter, or dispose of, let, lend, or expose to sale any meter with such forged stamp or mark thereon; every person so offending shall, for every such offence, forfeit, on conviction, a sum not exceeding Ten Pounds nor less than Forty Shillings; and all meters with such forged or counterfeit stamps shall be forfeited and destroyed.

PART I.

Penalty for counterfeiting stamps.

15. Any person who shall knowingly repair or alter, or knowingly cause to be repaired or altered, or knowingly tamper with or do any act in relation to any stamped meter so as to cause such meter to register unjustly or fraudulently, or who shall prevent or refuse to allow lawful access to any meter in his possession or control or the supply of water thereto as hereinafter provided, or shall obstruct or hinder any examination or testing authorised by this Act of any such meter, shall, on conviction, forfeit a sum not exceeding Five Pounds, pay the fees for removing and testing, and the expenses of purchasing and fixing new meters: Provided that the payment of any such penalty as aforesaid shall not exempt the person paying from liability to indictment or other proceedings at law to which he would be liable, or deprive any person of the right to recover damages against such persons for any loss or injury sustained by each act or default.

Penalty for obstructing inspector.

16. Every consumer of gas may purchase and use for measurement of the gas supplied to him any meter duly stamped under the authority of this Act, and may connect such meter with the supply pipe leading immediately out of any meter affixed by the company or person supplying the gas: Provided that the gas to be consumed per hour shall not exceed the quantity per hour the meter is intended to measure so marked on the outside thereof as aforesaid.

Consumer may use any stamped meter

17. Within a period of four years from the passing of this Act all meters whatsoever not previously stamped which shall be used for buying and selling gas, or for the collecting of any rates or duties, or for making any charges on the passage, transmission, or conveyance of gas, shall be examined and tested under the authority of this Act, and stamped if found correct; and every person who shall, after the time respectively fixed by this Act, knowingly use any meter which has not been so stamped as aforesaid shall, on conviction, forfeit a sum not exceeding Five Pounds; and any contract, bargain, or sale made by any such meter shall be void, and every such meter so used shall, on being discovered by any inspector so appointed as aforesaid, be seized, and on conviction of the person knowingly using or possessing the same, shall be forfeited and destroyed.

Within a period of four years all meters to be stamped.

18. No

*The Meters and Gas Act.—1881.***PART I.**

After twelve months
no meter to be sold,
&c., unless stamped—
and unstamped may
be stamped if
required or stamped
meter substituted
at the expense of the
person requiring it.

18. No meter for the purpose of ascertaining the quantity of gas sold shall be used or fixed for use after the expiration of twelve months after the passing of this Act unless the same shall have its measuring capacity at one revolution or complete action of the meter, and also the quantity per hour it is intended to measure in cubic feet or multiples or decimal parts of a cubic foot denominated or marked on the outside thereof in legible letters or figures, and shall be stamped by an inspector of meters under the provisions of this Act; and every person who, after the expiration of such twelve months, shall use or fix for use any such meter before it has been stamped, shall be liable to a penalty of Five Pounds for every such unstamped meter, and all meters required to be tested and stamped, except as hereinafter mentioned, shall be delivered to the inspector at the place where his testing gasholder and apparatus may be kept, and every purchaser and seller of gas by meter may at his own expense, at any time after the expiration of the said twelve months, require any unstamped meter by which his gas is measured to be examined, tested, and, if found correct, stamped; or he may at his own expense substitute a stamped meter in the place of such unstamped meter: Provided always that such purchaser or seller of gas shall, before removal of any such unstamped meter for the purpose aforesaid, give twenty-four hours, notice in writing of such intended removal to the other party to the contract.

Fees for testing and
stamping meters.

19. The fees for examination, comparison, and testing with or without stamping meters shall be Sixpence for each meter delivering a cubic foot of gas in four or more revolutions or complete repetitions of the action of the meter, and One Shilling for such meter delivering a cubic foot of gas by any less number of revolutions or complete action, and for each meter delivering more than one cubic foot of gas by one revolution or complete action, the further sum of One Shilling for every cubic foot of gas delivered at one revolution or complete action beyond the first cubic foot.

Power to inspectors
to enter houses, &c.,
and inspect gas mea-
sures and meters.

20. It shall be lawful for any inspector, authorised in writing under the hand of the Mayor or town clerk of any municipality, at the request and expense of any buyer or seller of gas, who shall have given twenty-four hours' notice in writing to the other party to the contract, at all reasonable times to enter any house, or shop, store, warehouse, still, yard, or place whatsoever within his jurisdiction where any meter, whether stamped or unstamped, shall be fixed or used, and to examine and test the same, and, if necessary for such purpose, to remove such meter, doing as little damage thereby as may be; and if, upon such examination and testing, it shall appear that any such meter is incorrect within the meaning of this Act, or fraudulent, the same shall not be refixed or used again unless and until altered and repaired so as to measure and register correctly, and stamped; and the fees on such removal, examination, and testing of a meter, whether stamped and replaced or not, shall be double the fees hereinbefore made payable for testing and stamping, and shall be payable by the buyer or seller of gas as the Council shall determine, and

*The Meters and Gas Act.—1881.***PART I.**

and shall be recoverable accordingly: Provided always that, in case the head office of the person or company to whom such notice is to be given shall be more than twenty miles distant from the meter referred to in such notice, three days' notice in writing shall be given instead of twenty-four hours' notice as aforesaid; and provided also that any person duly authorised by any company or persons selling gas by meter may supply water to any meter, so as to keep the water at the correct level.

21. In case of any dispute between the buyer and seller of gas by meter, or between any owner of a meter and any inspector of meters under this Act, respecting the correctness of any meter, the inspector shall, if required by any such person dissatisfied with his decision, give such party his reasons in writing for such decision, and such party may require such meter to be examined and re-tested by two inspectors of adjoining or neighboring districts, to be named by any Justice of the Peace; and the unanimous decision of such last-mentioned inspectors shall be final as to the correctness or incorrectness of such meter, except in case of appeal to a Local Court of Full Jurisdiction nearest to the place where such meter was fixed; and in case such two inspectors shall not agree, the decision of the inspector of the district to which such meter belongs shall be considered final, except in case of appeal to a Local Court, as hereinbefore mentioned; and the expenses of the proceedings to be taken under the powers hereby granted shall be ascertained by the said Court, who shall also determine by and to whom the same shall be paid.

Disputed decision of inspector to be referred to two inspectors of adjoining districts, &c.

22. All persons who may think themselves aggrieved by any act or decision of any inspector or inspectors of meters, or by any order, judgment, or determination of any Justice of the Peace relating to any matter or thing in this Act mentioned or contained, may appeal to the nearest Local Court of Full Jurisdiction at the then next practicable sitting to be held by the said Local Court of Full Jurisdiction nearest to which the alleged case of appeal shall arise, first giving seven days' notice in writing of such intention to appeal, and the grounds and nature thereof, to the party against whom such complaint is intended to be made, and forthwith after such notice entering into a recognizance before some Justice of the Peace, with two sufficient sureties, conditioned to try such appeal, and abide the order and award of the said Court thereon; and the said Local Court shall either hear and determine the said complaints at such next sitting of the said Court or, if they think proper, shall adjourn the hearing thereof till the following sitting of the said Court; and the said Local Court may, if they see cause, reverse or alter such decision, and mitigate any penalty or forfeiture, and may order any money to be returned which may have been levied in pursuance of such order or determination, and may also order any such further satisfaction to be made to the party injured as they shall judge reasonable, and may also order such costs to be paid by the party complained against to the party appealing, or *vice versa*, as they shall think reasonable.

Persons aggrieved may appeal to Local Court of Full Jurisdiction.

23. Where

*The Meters and Gas Act.—1881.***PART I.**

This Act and
existing powers not
to be cumulative.

23. Where any Municipal Corporation or person now have powers of appointing inspectors of meters, and they or such inspectors now have powers of stamping, re-stamping, examining, or testing meters, those powers and the provisions of this Act shall not be cumulative, but, on the passing of this Act, the provisions of this Act shall supersede all such powers.

Proceedings not to
be quashed for want
of form, or removed.

24. No proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by *certiorari* or by any other writ or proceeding whatsoever into Her Majesty's Supreme Court of the said province, any law or statute to the contrary notwithstanding.

As to recovery and
application of
penalties.

25. All fees and penalties received and recovered under this Act shall be applied in aid of the fund out of which the expenses of carrying the Act into effect shall be defrayed, and all penalties incurred under the provisions of this Act shall be recoverable, with expenses, in a summary way before two or more Justices of the Peace, and the whole penalties, after deducting all charges, and such remuneration to the person prosecuting as the said Justices shall think fit, shall be applied in aid of the funds liable under the provisions of this Act to the cost of providing or maintaining copies of the said models in the place where such penalties shall be awarded.

Limitation of actions,
&c.

26. In all actions brought against any person for anything done in pursuance of this Act, or in the execution of the powers or authorities thereof, such action shall be laid and brought into the nearest Local Court within which the cause of action shall have arisen, and the defendant or defendants in such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the acts were done in pursuance or by the authority of this Act; and if they shall appear to have been so done, or that such action shall have been brought otherwise than as hereinafter directed, then, and in every such case, the jury shall find for the defendant or defendants, upon which verdict, or if the plaintiff or plaintiffs shall become nonsuited or shall suffer a discontinuance of his, her, or their action after the defendant or defendants shall have appeared thereto, or if a verdict shall pass against the plaintiff or plaintiffs therein, or if upon demurrer or otherwise judgment shall be given against the plaintiff or plaintiffs therein, the defendant or defendants shall have his, her, or their costs, and shall have such remedy for recovering the same, as defendants have for recovering costs of suit by law in other cases.

Plaintiff not to
recover after tender
of amends.

27. No plaintiff shall recover in any action for any irregularity, trespass, or otherwise, wrongful proceeding made or committed in the execution of this Act, if tender of sufficient amends shall have been made by or on behalf of the party or parties who shall commit such irregularities, trespass, or other wrongful proceedings before such action brought; and in case no tender shall have been made it shall
be

The Meters and Gas Act.—1881.

be lawful for the defendant or defendants in any such action, by leave of the Court wherein such action shall depend, at any time before issue joined, to pay into Court such sum or sums of money as he, she, or they shall think fit, whereupon proceedings, order, and adjudication shall be had and made in and by such Court as in other actions when defendants are allowed to pay money into Court.

PART I.**PART II.****PART II.**

28. If at any time complaints as to the quantity or quality of the gas supplied by any company be made to the Council by any householder supplied with gas by any gas company, it shall be lawful for the said Council, at any time within one month of the receipt of such complaint, to direct an examiner after to inquire into and concerning the grounds of such complaint, and to report to he said Council thereon.

On complaints as to the quality and quantity.

May appoint a person as examiner to inquire and report.

29. When an examiner has been so appointed as aforesaid the town clerk shall give notice of such appointment in writing to the company, and at any time after twenty-four hours from the time of giving such notice as aforesaid the examiner shall have power to inspect and examine the gasworks of the company, and to inquire into and concerning the grounds of such complaint, and the company and their officers shall afford all reasonable facilities for such inspection, examination, and inquiry.

Power of examiner so appointed.

30. Any person obstructing such examiner in the due prosecution of such inspection, examination, or inquiry shall forfeit and pay any sum not exceeding Ten Pounds.

Penalty on obstructing examiner.

31. If, after receipt of such report, it shall appear to the said Council that the said complaint is well founded, the said Council shall give notice thereof in writing to the company.

Notice, if complaint well founded.

32. After the receipt of such notice the company shall, and they are hereby required within a reasonable time to, remove the grounds of such complaint.

Company to remove ground of complaint.

33. Every gas company shall in all things obey the orders of the said Council, made in pursuance of this Act, and in default of their so doing they shall be liable to a penalty not exceeding Fifty Pounds for each offence.

Gas companies to obey orders of Council.

34. All the costs, charges, and expenses of and incident to any inquiry and decision of the said Council, under this Act, shall from time to time be borne and paid by such parties as the said Council shall direct, and such decision may, upon an *ex parte* application, be made a rule of any of Her Majesty's superior Courts of Law within the said province.

Acts of altering district.

35. If

The Meters and Gas Act.—1881.

PART II.

Penalty for deficient
illuminating power
or impurity.

Appointment by
local authority of
examiner of gas.

35. If the gas supplied by the gas company be at any time of a less illuminating power, or of less purity than according to this Act it ought to be, the gas company shall, for each offence, on a summary conviction before two or more Justices, forfeit a sum not exceeding Fifty Pounds, and a further sum of Ten Pounds for every day, after notice in writing from the Council, during which the offence continues: Provided that such Justices shall not convict under this section if it shall be proved to their satisfaction that such defect of gas was occasioned by any unavoidable cause or accident.

36. The Council of any municipality in which gas shall be supplied shall provide all proper and sufficient apparatus, machinery, and instruments for testing the illuminating power and purity of the gas, and from time to time shall appoint and, out of any funds applicable by them for their local purposes, may pay a chemical examiner or gas engineer or other competent person to be an examiner for the purposes of this Act; and every gas company shall, within twelve months after the passing of this Act, cause to be erected in some suitable testing place to be provided by the Council of the District within which the mains of the company may for the time being be laid or otherwise upon the company's land, and in case of dispute between the company and the Council as to the place, the same shall be fixed by a Special Magistrate upon the application of either party after hearing the parties thereon, an experimental meter furnished with a suitable burner capable of consuming five cubic feet of gas per hour, with other necessary apparatus for the purposes following—

I. For testing the illuminating power of the gas supplied:

II. For testing the presence of sulphuretted hydrogen in the gas supplied:

The said apparatus shall be in accordance with the regulations prescribed in schedule A hereto, and shall be so situated and arranged as to be used for the purpose of testing the illuminating power and purity of the gas supplied by the company, and the company shall at all times thereafter keep and maintain such testing place and apparatus in good repair and working order.

The gas supplied by any person or company shall not exhibit any trace of sulphuretted hydrogen when tested in accordance with the rules prescribed by this Act, and shall be of such minimum quality as when so tested to produce from an argand burner having twenty-four holes and a seven-inch chimney, or other approved burner and chimney, a light equal in intensity to the light produced by fifteen sperm candles of six in the pound.

The company may, if they think fit, on each occasion of the testing of the gas by the gas examiner, be represented by some officer, but such officer shall not interfere in the testing.

Any tests taken in pursuance of this Act shall be taken in accordance with the rules prescribed in Schedule B hereto.

The

*The Meters and Gas Act.—1881.***PART II.**

The gas examiner shall, on the day immediately following that on which the testing of the illuminating power or purity of the gas has been conducted, make and deliver a report of the results of his testing to the Council by whom he was appointed, and to the undertakers, and such report shall be receivable in evidence, and shall *prima facie* be deemed to be correct.

37. Whenever the undertakers neglect or refuse to give a supply of gas to any owner or occupier of premises within the limits of the special Act entitled to the same under such pressure as is prescribed, they shall be liable to a penalty not exceeding Forty Shilling for each day during which such default continues. Penalties.

If it shall be proved to the satisfaction of any two or more Justices, not being shareholders in the undertaking, after hearing the parties, that on any day the gas supplied by the undertakers is under less pressure, of less illuminating power, or of less purity than it ought to be according to the provisions of this or the special Act, the undertakers shall in every such case forfeit and pay to the person or persons making application for testing the gas such sum, not exceeding Twenty Pounds, as the Justices shall determine.

Penalties imposed on the suppliers or consumers of gas for one and the same offence by several Acts of Parliament shall not be cumulative.

38. The examiner shall, on giving three hours' notice to the secretary or engineer of the company, have access at all times to such experimental meter, and when and so often as it is necessary, or he is so directed by the Council appointing him, shall examine the illuminating power and the purity of the gas supplied, and shall present to the Council so often as they require a report stating the number of examinations on which the report is founded, and the maximum, minimum, and average illuminating power and gas supplied during the whole period to which the report relates, with such other information and remarks thereon as may be deemed necessary. Examination of gas and report thereon.

39. Provided that two or more Councils if they think fit may join in providing the apparatus, machinery, and instruments, and in appointing and paying the examiner, and he shall make his reports to every Council so joining in appointing and paying him. Two or more local authorities may join in the appointment.

40. The examiner, on payment to him of a fee of Ten Shillings and Sixpence by any consumer, shall at his request examine and report to him on the illuminating power and the purity of the gas supplied as hereinbefore mentioned, and any consumer may make complaint to any Magistrate with respect to the illuminating power or purity of the gas supplied to the complainant, and the Magistrate may entertain and hear the complaint and proceed thereon according to the provisions of this Act. Complaint to a Magistrate as to supply of gas.

41. Any

*The Meters and Gas Act.—1881.***PART II.**

Hearing on report.

41. Any Magistrate may direct that notice be given to the complainant and the gas company to appear and be heard on the complaint at such time as he appoints, and each party shall thereupon appear and may be heard before a Magistrate by themselves, their counsel, or solicitors.

Order on hearing.

42. Where on the hearing, and whether or not the gas company have appeared, it appears to the Magistrate that the complaint of any part thereof is well founded, he shall make an order declaring that the same is well-founded, and ordering the gas company to pay any penalty or penalties thereby incurred, and to remove within a reasonable time the grounds of complaint; and he may by the order direct that any specific acts shall be done by the gas company for removing the grounds of complaint, and may make any order as to costs, and all orders so made shall be final and binding on all parties.

Gas company to obey order.

43. Where the gas company are served with any order so made, they shall within the time limited by the order remove the grounds of complaint thereby declared to be well founded, and pay the penalty or penalties, and the damages (if any), and costs (if any), thereby ordered to be paid by them.

Gas companies to afford facilities for examination under this Act.

44. The gas company and their officers, agents, and servants, and when there is any complaint made, the complainant shall afford to every examiner appointed by the Council all reasonable facilities for the respective inspection, examination, and inquiry, and any person obstructing such examiner so appointed in the exercise of his duties under this Act shall for every such offence forfeit not exceeding Ten Pounds.

Incoming tenant not to pay arrears of outgoing tenant unless by express agreement.

45. In case any consumer leave the premises where gas was supplied to him without paying to the gas company the rate or meter rent due from him, the gas company shall not require from the next tenant of the premises payment of the arrears so left unpaid unless the incoming tenant agreed with the defaulting consumer to pay the arrears; but the gas company shall notwithstanding any such arrears, in the absence of collusion between the outgoing and incoming tenant, supply gas to the incoming tenant, as required by this Act on being required by him so to do.

Recovery and application of penalties.

46. Every penalty imposed by this Act, the recovery and application of which is not otherwise specially provided for by this Act, shall be recovered in a summary way before two or more Justices, and shall be paid to the treasurer of the Corporation.

Saving general jurisdiction of Courts of law and equity.

47. No special remedy or provision for giving relief to any person given by this Act shall prejudice or diminish the general jurisdiction of any Court of law or equity over or with respect to the acts or defaults in respect of which the special remedies or provisions are so given.

PART

The Meters and Gas Act.—1881.

PART III.

PART III.

48. In construing this Act the word “meter” shall mean gas meter, and shall include every kind of machine used for measuring gas; and the word “person” shall include Corporations; “Council” shall mean the Council of any Municipal Corporation; “municipality” or “municipal bounds” shall mean the area contained within the boundaries of any city or town incorporated under “The Municipal Corporations Acts” in force within the Province of South Australia.

Definitions.

49. The provisions of this Act shall apply to every gas undertaking authorised by any special Act heretofore passed or hereafter to be passed.

Application of provisions.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

The Meters and Gas Act.—1881.

SCHEDULE A.

Regulations in respect of testing apparatus.

1. The apparatus for testing the illuminating power of the gas shall consist of the improved form of Bunsen's photometer, known as Letheby's open 60-inch photometer, or Evans's enclosed 100-inch photometer, together with a proper meter minute clock governor, pressure, gauge, and balance.

The burner to be used for testing the gas shall be such as shall be prescribed by the special Act.

The candles used for testing the gas shall be sperm candles of six to the pound, and two candles shall be used together.

2. The apparatus—

a. For testing the presence in the gas of sulphuretted hydrogen—A glass containing a strip of bibulous paper, moistened with a solution of acetate of lead containing 60 grains of crystallized acetate of lead dissolved in one fluid ounce of water.

SCHEDULE B.

Rules as to Mode of Testing Gas.

I.—MODE OF TESTING FOR ILLUMINATING POWER.

The gas in the photometer is to be lighted at least fifteen minutes before the testing begins, and it is to be kept continually burning from the beginning to the end of the tests.

Each testing shall include ten observations of the photometer, made at intervals of a minute.

The consumption of the gas is to be carefully adjusted to five cubic feet per hour.

The candles are to be lighted at least ten minutes before beginning each testing, so as to arrive at their normal rate of burning, which is shown when the wick is slightly bent and the top glowing. The standard rate of consumption for the candles shall be 120 grains each per hour. Before and after making each set of ten observations of the photometer, the gas examiner shall weigh the candles, and if the combustion shall have been more or less per candle than 120 grains per hour he shall make and record the calculations requisite to neutralise the effects of this difference.

The average of each set of ten observations is to be taken as representing the illuminating power of that testing.

MODE OF TESTING.

a For sulphuretted hydrogen—The glass shall be passed through the glass vessel containing the strip of bibulous paper, moistened with the solution of acetate of lead, for a period of three minutes, and if any discoloration of the test paper is found to have taken place, this is to be held conclusive as to the presence of sulphuretted hydrogen in the gas.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 234.

An Act to make provision for the Protection of certain
open spaces or Ornamental Grounds in any City,
or Town, or District within the Province of South
Australia.

[Assented to, November 18th, 1881.]

WHEREAS certain open spaces or ornamental grounds have
been set apart for, or dedicated to, or vested in, certain
Municipal bodies and District Councils in the Province of South
Australia for the use of the inhabitants thereof respectively, and it
is desirable that Municipal Councils and District Councils should
be empowered to lay out, plant, improve, and maintain such lands
or ornamental grounds for the purpose of being used as public
walk, or pleasure grounds, by contributing out of the Municipal or
District Council funds, or out of any special rate to be imposed
under the powers herein contained, and it is also desirable to
empower such Municipal and District Councils to make, charge, and
recover a fee or fees for admission to such grounds—Be it therefore
Enacted by the Governor of the Province of South Australia, with
the advice and consent of the Legislative Council and House of
Assembly of the said province, in this present Parliament assembled,
as follows :

Preamble.

1. This Act may be cited for all purposes as “The Ornamental
Grounds Act, 1881.”

Short title.

2. In the construction of this Act, except where the subject
matter or context, or other provisions hereof, require a different
construction,

Interpretation
clause.

The Ornamental Grounds Act.—1881.

construction, the following terms in inverted commas shall have the respective meanings hereinafter assigned to them, that is to say—

“ Council.”

“ Council ” shall mean and include the Mayor and Councillors of any Municipal Corporation, as well as the Chairman and Councillors of any District Council.

“ Open space,”
“ Ornamental
Ground,” “ the
Grounds.”

“ Open space ” or “ ornamental ground ” or “ the grounds ” shall mean and include any open and unenclosed land, as well as any public square or enclosed garden or plantation.

Council to take
charge of ground
and to exercise all
rights.

3. Where, in any city, town, or district in South Australia, any open space or enclosed ground has been dedicated and set apart for the use or enjoyment of the inhabitants thereof, such Municipal Council or District Council (as the case may be) shall thenceforth take charge of and maintain the same as an open place in such manner as shall appear to them the most advantageous to the public, and the said Council shall be fully empowered, for and in the name of their corporate body, to exercise all the rights, powers, and privileges in relation thereto, and take such legal proceedings for asserting, defending, and protecting the same as they might have exercised had such ground been conveyed to them in fee simple by purchase or by grant from the Crown: Provided always that this Act shall not apply to land so dedicated or set apart within any district unless and until a majority of the ratepayers of such district present at a public meeting, or, if a poll be demanded, voting at a poll to be held in manner prescribed by sections numbered two hundred and twenty-four, two hundred and twenty-five, two hundred and twenty-six, two hundred and twenty-seven, two hundred and twenty-eight, and two hundred and twenty-nine of Part ix. of “The Municipal Corporations Act, 1880,” shall have passed a resolution that it shall so apply.

The Council may
make by-laws.

4. The said Council is hereby empowered to make such by-laws and regulations as are defined in section two hundred and forty-two of “The Municipal Corporations Act, 1880,” under the heading or side-note “Park Lands and Reserves,” and may from time to time alter, modify, amend, or repeal such by-laws and regulations as to them may seem meet; and by such by-laws inflict penalties, not exceeding Ten Pounds for each offence, for the better enforcing the said by-laws, or for punishing the breach thereof, or any of them.

The Council may
charge entrance fees.

5. The Council may, in addition to all other powers hereby given, make, charge, and recover such fee or fees for admission to and use of such grounds as may be set apart for, or dedicated to, or vested in such Council, as to them may seem meet, and such fees so recovered shall be paid by the said Council to the credit of a separate fund, to be called “The Ornamental Grounds Fund,” and shall in the first instance be applied to the payment of all interest upon any expenditure incurred in laying out and planting and the fencing in of such grounds, and after the payment of such interest such fund shall be allowed to accumulate in such manner as shall be

The Ornamental Grounds Act.—1881.

be most expedient with a view to the maintenance of such grounds, or the purchase of additional land to extend the area of the same, or to acquire other lands within the jurisdiction of such Council, as to them may appear most desirable.

6. The Council shall have the like powers to make, collect, enforce, and recover a rate for the improvement and ornamentation of such grounds as is given to Municipal Councils by section two hundred and one of "The Municipal Corporations Act, 1880," for the improvement and ornamentation of park lands, squares, and reserves of any municipality, provided such rate does not exceed Threepence in the Pound. The Council to make rate.

7. The Council may let any part of the said grounds for a term not exceeding eight days, and may permit or not, as they may deem desirable, the person or persons to whom the part of the grounds in this section named may be so let, to charge an entrance fee during such term to such part of the said grounds. The Council may let portion of the grounds.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 235.

An Act to amend the "Crown Lands Consolidation Act,"
and "The Crown Lands Amendment Act,
1880."

[Assented to, November 18th, 1881.]

WHEREAS it is expedient to amend the "Crown Lands Consolidation Act," and "The Crown Lands Amendment Act, 1880"—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. This Act may be cited for all purposes as "The Crown Lands Amendment Act, 1881."

Short title.

2. Section 6 of "The Crown Lands Amendment Act, 1880," is hereby repealed, but such repeal shall not affect the validity of any agreement entered into in pursuance of the said section, nor any estate, right, interest, or liability now or hereafter existing under or by virtue of any such agreement

Repeal of section 6 of "The Crown Lands Amendment Act, 1880."

3. Any person holding land under agreement, may at any time apply in writing to the Commissioner for leave to surrender his agreement or agreements, and shall, upon proof that he has up to the time of the application complied to the satisfaction of the Commissioner with the condition of the Acts and of the agreement or agreements under which he holds such land, be entitled to surrender his existing agreement or agreements and to enter into a new agreement or agreements under this Act in respect of such land.

Holders of agreements existing before "The Crown Lands Amendment Act, 1880," or who have come in under that Act, may surrender their agreements and come in under this Act.

4. Every such new agreement shall bear the same date as the original

Form of agreement.

The Crown Lands Amendment Act.—1881.

original agreement, and shall be in the form of the First Schedule to "The Crown Lands Amendment Act, 1880," or to the like effect.

Agreements brought under "Crown Lands Amendment Act, 1880," to be under this Act.

5. Any agreement into which a person has entered, pursuant to section 6 of "The Crown Lands Amendment Act, 1880," on surrendering his agreement or agreements under "The Waste Lands Alienation Act, 1872," or "The Crown Lands Consolidation Act," shall be held to be under this Act in respect of such land, and no surrender or new agreement shall be requisite: Provided always that the selector shall, by application, in writing, to the Commissioner, duly witnessed, request to come under the Act, and produce the agreement for an indorsement thereon, as prescribed by regulations to be made.

Holders of agreements coming in under this Act to be credited with moneys paid by them beyond the 10 per cent. payable at sale.

6. Every person entering into a new agreement or agreements under this Act, who shall have paid any interest beyond the ten pounds per centum on the amount of his purchase-money payable at the time of sale, shall be credited with the amount of the interest so paid against the interest payable under such new agreement or agreements: And every person entering into any such new agreement or agreements, who shall have paid any part of the purchase-money payable under his existing agreement or agreements, shall be credited with the amount of the purchase-money so paid against the purchase-money payable under such new agreement or agreements, but shall pay interest only on the unpaid balance of his purchase-money.

Commissioner to have care and control of reserved and dedicated lands.

7. The care, control, and management of all lands reserved or dedicated by the Governor for or to any public purpose shall, in the interim between the reservation or dedication of such lands, and until the same shall be granted in fee, be vested in the Commissioner, and such land shall, during such interim, be deemed to be Crown lands: Provided that nothing herein contained shall affect any lands the care, control, and management of which shall have been or shall hereafter be placed in a Municipal Corporation or District Council.

Amendment of the Third Schedule to the "Crown Lands Amendment Act, 1880."

8. The word "Willunga" in the sixth line of the Third Schedule to "The Crown Lands Amendment Act, 1880," is hereby repealed, and the said Act and Schedule shall be read and construed as if the word "Wiltunga" had been inserted in the said Schedule instead of the word hereby repealed.

Incorporation.

9. Except in so far as the same are inconsistent with the provisions of this Act, the "Crown Lands Consolidation Act," and all Acts incorporated therewith, shall be read and incorporated herewith as forming one Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 236.

An Act to further amend "The Constitution Act."

[*Reserved, November 18th, 1881.*]

WHEREAS it is expedient to further amend "The Constitution Act," by increasing the number of the members of the Legislative Council of the Province of South Australia to twenty-four, and by dividing the said province into four electoral districts for the purpose of elections for the said Council, having six members to represent each district, and by providing a means of determining any differences between the said Council and the House of Assembly, in respect of Bills twice passed by the House of Assembly, and twice rejected by the said Council—Be it therefore Enacted by the Governor of the said Province, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. This Act may be cited for all purposes as "The Constitution Act Further Amendment Act, 1881."

Short title.

2. This Act, so far as is consistent with the tenor thereof, shall be construed as one with "The Constitution Act."

Incorporation.

3. This Act shall come into operation from and after a day to be fixed by the Governor by Proclamation in the *South Australian Government Gazette*.

Commencement of Act.

The Constitution Act Further Amendment Act.—1881.

Repeal

4. Section 8 of "The Constitution Act," and section 3 of Act No. 27 of 1872, being "An Act to define the Electoral Districts for the election of members to serve in the Parliament of South Australia," are hereby repealed: Provided this repeal shall not affect anything lawfully done under the authority thereof, nor any rights acquired or liabilities incurred thereunder.

Electoral districts for the election of members of the Council.

5. Except as hereinafter provided, the said province, for the purpose of the election of members for the said Council, shall be divided into the four electoral districts comprising the several electoral divisions mentioned in the Schedule hereto, the names and boundaries of the said several electoral divisions being specified in the First Schedule of the said Act No. 27 of 1872.

Present members to continue members.

6. The present members of the Legislative Council shall continue members thereof, but subject to the provisions of this Act.

Election of six new members.

7. Immediately after this Act shall come into operation, six new members shall be elected to represent the said province in the Council by the whole province voting as one district. The names of the newly-elected members shall be placed last on the members' roll of the said Council, after the names of the members previously on the said roll, in the order following:—The name of the member who at the election obtained the least number of votes shall be placed first, the name of the member who obtained the next least number of votes shall be placed second, and so on in rotation, the object being that the name of the member who obtained a greater number of votes shall be later on the said roll than the name of the member who obtained a less number of votes. In the event of equality of votes between all or any of the members, the members obtaining equal votes shall determine by lot the order in which their names shall be placed on the said roll.

Order of retirement of members of Council during first nine years.

8. At the expiration of the several periods of three years, six years, and nine years, from the coming into operation of this Act, the eight members whose names shall, at such respective periods, appear first upon the said roll shall retire.

Two members to be elected for each district.

9. Two members shall be elected by each of the said four electoral districts to fill up the vacancies created by the said periodical retirement of eight members.

Vacancies occurring during first nine years, how supplied.

10. If any vacancy shall occur from death, resignation, or any other cause, of any of the members who were elected by the electors of the whole province voting as one district, before the period for retirement of such members, the same shall be supplied in manner following, that is to say—the first of such vacancies shall be supplied by the return of a member for District No. 1; the second, by the return of a member for District No. 2; the third, by the return of a member for District No. 3; the fourth, by the return of a member for District No. 4; the fifth, by the return of a member for District No. 1; and so on in rotation.

III.

The Constitution Act Further Amendment Act.—1881.

11. If any vacancy shall occur from death, resignation, or any other cause, of any of the members who, from time to time, may be elected for any of the said four electoral districts before the period for the retirement of such members as aforesaid, the same shall, from time to time, be supplied by the return of a member for the district for which such member so causing the vacancy was returned; and the name of the newly-elected member shall be placed last on the members' roll for such district.

Vacancies occurring after nine years, how supplied.

12. From and after the first election of members for the said districts, a roll shall be kept, showing the names of the members elected for the districts, and the names of the said districts, and the names of the members shall be placed on the said roll in the order of time in which they were elected; or when two or more members have been elected at the same time for a district, the member who received the least number of votes shall be placed first on the said roll, and the name of the member who received the next lowest number of votes shall be placed next, and so on in rotation; and in the event of equality of votes, such members shall determine by lot the order in which their names shall be respectively placed on the said roll.

Members' roll, showing names of members and districts, to be kept, and order in which names of members to be placed thereon.

13. Twelve years after the coming into operation of this Act, and thereafter at the expiration of every three years, the two members whose names are first on the roll for each of the said four electoral districts shall retire, and two members shall be elected by each of such districts.

Order of retirement of members of Council after period of nine years.

14. It shall be lawful for the Governor from time to time to appoint a Returning Officer for each of the said districts, and all writs for the election of any members of the said Council for any electoral district shall be directed to the Returning Officer of such district. Such Returning Officer shall, in respect of all electoral matters within the district for which he is appointed, have the same powers and authorities, and perform the same duties, as are at present done and performed by the Returning Officers for the said province. And whenever in the Electoral Act, 1879, powers are given to, or duties enforced upon the Returning Officer of the province, the same powers and duties shall be taken to have been given to and enforced upon the Returning Officer to be appointed for each district within the boundaries of their respective districts. The Governor may also appoint Deputy Returning Officers for each district, and such Deputy Returning Officers shall, within their respective districts, perform the duties as required by the Electoral Act, 1879, as Deputy Returning Officers for the said province.

Appointment of Returning Officers.

Deputy Returning Officers.

15. From and after the election of the additional six members authorised by this Act, the Legislative Council shall not be competent to the dispatch of business unless there be present, including the President, or the person chosen to preside in his absence, at least nine Members of the said Council.

Quorum of Members.

16. Whenever

The Constitution Act Further Amendment Act.—1881.

Course to be taken
when Legislative
Council rejects same
Bill twice passed by
House of Assembly.

16. Whenever any Bill for any Act shall have been passed by the House of Assembly during any Session of Parliament, and the same Bill, or a similar Bill with substantially the same objects and having the same title, shall have been passed by the House of Assembly during the next ensuing Parliament, a general election of the House of Assembly having taken place between such two Parliaments, the second and third readings of such Bill having been passed in the second instance by an absolute majority of the whole number of members of the said House of Assembly, and both such Bills shall have been rejected by or fail to become law in consequence of any amendments made therein by the Legislative Council, it shall be lawful for, but not obligatory upon, the Governor of the said province, by Proclamation to be published in the *Government Gazette*, to dissolve the Legislative Council and House of Assembly, and thereupon all the members of both Houses of Parliament shall vacate their seats, and members shall be elected to supply the vacancies so created: or for the Governor to issue writs for the election of one or not more than two new members for each district of the Legislative Council: Provided always that no vacancy, whether by death, resignation, or any other cause, shall be filled up while the total number of members shall be twenty-four or more.

Election of members
after dissolution.

17. In the event of the Council being dissolved, six members shall be elected for each of the said districts, and the names of such members shall be placed on the roll of members for the said districts in the order provided for in section 12 of this Act, and thereafter the several periodical retirements of members referred to in sections 8 and 13 of this Act shall date from the day of their election.

I reserve this Act for the signification of the Queen's pleasure.

WM. F. DRUMMOND JERVOIS, Governor.

THE

The Constitution Act Further Amendment Act.—1881.

THE SCHEDULE HEREINBEFORE REFERRED TO.

Electoral Districts for Members of the Legislative Council.

- No. 1. Central Electoral District, comprising the electoral divisions of East Adelaide, West Adelaide, North Adelaide, West Torrens, Sturt, and Port Adelaide.
- No. 2. Southern Electoral District, comprising the electoral divisions of Onkaparinga, Noarlunga, Mount Barker, Encounter Bay, Albert, Victoria, and East Torrens.
- No. 3. North-Eastern Electoral District, comprising the electoral divisions of Yatala, Gumeracha, Barossa, Woorcora, Light, and Burra.
- No. 4. Northern Electoral District, comprising the electoral divisions of Wallaroo, Stanley, and Flinders.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 237.

Marine Board and Navigation Act.

ANALYSIS.

PRELIMINARY.

Preamble.

1. Short Title.
2. Commencement.
3. Interpretation.
4. Act not to apply to certain ships.
5. Division of Act.

PART I.

INCORPORATION, CONSTITUTION, AND GENERAL POWERS OF THE MARINE BOARD.

6. Abolition of existing Marine Board.
7. Incorporation of Marine Board.
8. Appointment of Wardens.
9. Nomination of Wardens.
10. Filling up of extraordinary vacancies.
11. Qualification of electors.
12. List of voters to be made out.
13. Revision of lists.
14. Registers to be produced.
15. Persons named in revised list qualified to vote.
16. Qualifications of nominated Wardens of the Marine Board.
17. Error in election not to vitiate acts of Marine Board.
18. Warden of Marine Board not to hold office under the Board.
19. Powers of Marine Board to be exercised within one league to seaward.
20. Board may appoint officers.
21. Certificates and documents purporting to be sealed or signed in a given manner to be received in evidence, or marked with some distinguishing stamp approved by the Board.
22. Owners and masters of ships to use proper forms.
23. Board may issue forms.
24. Forms unauthorised by Board to be inadmissible as evidence.

25. Penalties for forgery of seal and fraudulent alteration of forms.
26. General duties of Marine Board.
27. Control of Treasurer over Board.
28. Lands may be leased for certain purposes.
29. Marine Board may authorise erection of wharves, &c., in any port and may lease wharves.
30. Marine Board may appoint inspectors.
31. Powers of Board, inspectors, and surveyors.
32. Witnesses to be allowed expenses.
Penalty for refusing to give evidence.
33. Power to enforce attendance of witnesses.
34. Penalty for obstructing surveyors or inspectors in the execution of their duty.
35. Marine Board may inspect documents and muster crews.
36. Penalty for refusing to produce documents, &c.
37. Board may make by-laws and regulations.

PART II.

MASTERS AND SEAMEN.

38. Application of Part II. Fishing vessels and yachts partly exempt from Part II.

Mercantile Marine Offices.

39. Marine Board to establish Mercantile Marine Offices.
40. Business of such offices generally.
41. Fees to be paid upon engagements and discharges.
42. Masters to pay fees, and to deduct part from wages.
Proviso as to excess.
43. Penalty on Superintendent of Mercantile Marine taking other remuneration.
44. Dispensation of superintendence of Superintendent of Mercantile Marine.

Apprenticeships

*Marine Board and Navigation Act.—1881.**Apprenticeships to the Sea Service.*

45. Superintendents of Mercantile Marine to assist in binding apprentices, and may receive fees.
46. Indentures of boys bound apprentice to sea service to be witnessed by a Superintendent of Mercantile Marine, a Special Magistrate, or two Justices.
47. Indentures of apprenticeship to be in duplicate, and recorded.
48. Apprentices and their indentures to be brought before Superintendent of Mercantile Marine.

Engagement of Seamen.

49. Licence of persons to procure seamen.
50. Penalty for supplying seamen without licence.
Penalty for employing unlicensed persons.
Penalty for receiving seamen illegally supplied.
51. Penalty for receiving unauthorised remuneration from seamen.
52. Agreements to be made with seamen shall contain certain particulars.
53. Agreements with fishermen.
54. For foreign-going ships and intercolonial ships such agreements when made in the province, except in special cases, to be made before, and attested by, a Superintendent of Mercantile Marine.
To be explained to seamen.
To be in duplicate.
Provision for substitutes.
Extra expense for signing to be borne by ship.
55. Foreign-going ships, or intercolonial ships, making short voyages, may have running agreements.
56. Engagement and discharge of seamen in the meantime.
57. Fees to be paid on such running agreements.
58. In coast-trade ships agreements may be entered into before a Superintendent of Mercantile Marine or other witness.
59. Special agreements for coast-trade ships belonging to same owners.
60. Penalty for shipping seamen without agreement duly executed.
61. Changes in crew to be reported.
62. Rules as to production of agreements and certificates of masters, mates, and engineers of foreign-going ships and intercolonial ships.
63. Rules as to production of agreements and certificates for coast-trade ships.
64. Owner or agent of coast-trade ships may enter into time agreements.
65. Alterations to be void unless attested to have been made with the consent of all parties.
66. Penalties for falsifying agreements.
67. Seamen not to be bound to produce agreement.
68. Copy of agreement to be made accessible to crew.
69. Seamen discharged before voyage to have compensation.
70. Power of Court to rescind contract between owner or master and seaman or apprentice.

Allotment of Wages.

71. Regulations as to allotment notes.
72. Allotment notes in favor of certain persons. Allotment notes may be sued upon with certain restrictions.

Advance Notes.

73. Advance notes illegal.

Discharge and Payment of Wages.

74. Discharge from foreign-going ships and intercolonial ships to be made before Superintendent of Mercantile Marine.

75. Master to deliver account of wages.
76. On discharge, masters to give seamen certificate of discharge, and return certificates of competency or service to mates and engineers.
77. Board or Superintendent of Mercantile Marine may decide questions which parties refer to them or him.
78. Masters and others to produce ship's papers to Board or Superintendent of Mercantile Marine, and give evidence.
79. Settlement of wages.
Release to be signed before and attested by the Superintendent of Mercantile Marine.
To be discharge.
And to be evidence.
No other receipt to be a discharge.
Voucher to be given to master, and to be evidence.
80. Master to make reports of character.

Legal Rights to Wages.

81. Right to wages and provisions when to begin.
82. Seamen not to give up certain rights.
And stipulation concerning salvage.
83. Wages not to be dependent on the earning of freight.
84. In case of death such wages to be paid as after-mentioned.
85. Wages on termination of service by wreck or illness.
86. Wages not to accrue during refusal to work or imprisonment.
87. Period within which wages are to be paid.

Mode of Recovering Wages.

88. Seamen may sue for wages in a summary manner.
89. Restrictions on suit for wages in Superior Courts.
90. Admiralty jurisdiction and suing in Superior Courts.
As to claim exceeding £50 by seaman for wages.
As to claim exceeding £50 by master for wages and disbursements.
Proviso as to costs.
91. No seaman to sue for wages abroad, except in cases of discharge or of danger to life.
92. Master to have same remedies for wages as seamen.

Wages and Effects of Deceased Seamen.

93. Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same, and wages due, in the official log.
94. Such effects and wages to be paid to Superintendent of Mercantile Marine, with full accounts.
95. Recovery of wages, &c., of seamen lost with their ship.
96. Penalties for not remitting, or accounting for such moneys and effects.
97. Wages and effects of seamen dying at home to be paid, in certain cases, to Marine Board.
98. If less than £50, wages and property of deceased seamen may be handed over, without probate or administration, to the persons entitled.
99. Mode of payment under wills made by seamen.
100. Provision for payment of just claims by creditors, and for preventing fraudulent claims.
101. Mode of dealing with unclaimed wages of deceased seamen.
102. Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.

Leaving

*Marine Board and Navigation Act.—1881.**Leaving Seamen Abroad.*

103. Forcing seamen on shore a misdemeanor.
104. No seaman to be discharged or left abroad without certificate of some functionary.
105. Proof of such certificate to be upon the master.
106. Wages to be paid when seamen are left behind on ground of inability.
107. Such payment, if made in British possession, to be made to seaman himself; if made out of Her Majesty's dominions, to be made to Consular Officer, who shall give a receipt.
108. Distressed seamen found abroad may be relieved and sent home at expense of province.
109. Power to sue for the amount advanced for the relief of seamen left abroad.

Provisions, Health, and Accommodation.

110. Survey of provisions and water on complaint made.
111. Forfeiture for frivolous complaint.
112. Allowance for short or bad provisions.
113. Rules for medicines, medical stores, and anti-scorbutics.
114. Masters to keep weights and measures on board.
115. Penalty for selling bad drugs for ships.
116. Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed.
117. Seamen's expenses, in case of illness through neglect of owner or master, to be paid by them.
118. Forfeiture of wages of seaman when illness caused by his own default.
119. Board may appoint medical inspectors.
120. Medical inspection of seamen.
121. Expenses, if paid by Consul, to be recoverable from owner.
122. Place appropriated to seamen to have a certain space for each man, and to be properly constructed and kept clear.

Power of Making Complaint.

123. Seamen to be allowed to go ashore to make complaint to a Justice.
124. Sale of and charge upon wages to be invalid.
125. No debt exceeding 5s. recoverable till end of service.
126. Penalty for overcharges by lodging-house keepers.
127. Penalty for detaining seamen's effects.
128. Persons not to go on board before the final arrival of ship without permission.
129. Penalty for solicitations by lodging-house keepers.

Rating of Seamen.

130. Rating of seamen.

Discipline.

131. Misconduct endangering ship, or life, or limb, a misdemeanor.
132. Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.
133. Board may order inquiry.

Court of Marine Inquiry.

134. Constitution of Court of Marine Inquiry.
135. Court of Marine Inquiry to be a corporation.
136. Duties of Court of Marine Inquiry.
137. Quorum of Court of Marine Inquiry.
138. President of Court of Marine Inquiry.
139. Judgment of Court of Marine Inquiry.
140. Powers of Court of Marine Inquiry.
141. Clerk of Court of Marine Inquiry.
142. Place of sitting.
143. Rules may be made.
144. Certificates to be delivered up.

Offences of Seamen.

145. Offences of seamen and apprentices and their punishments.
 - Desertion.
 - Neglecting or refusing to join or proceed to sea, absence within twenty-four hours before sailing, and absence without leave.
 - Quitting without leave before ship is secured.
 - Act of disobedience.
 - Continued disobedience.
 - Assault on officers.
 - Combining to disobey.
 - Willful damage and embezzlement.
 - Act of smuggling, causing loss to owner.
146. Survey of ships alleged by seamen to be unseaworthy.
147. Compensation to seamen for unnecessary detention on charge of desertion.
148. Entry of offences to be made in official log, and to be read over, or a copy given to the offender, and his reply (if any) to be also entered.
149. Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.
150. Deserters may be sent on board.
151. Entries of desertion abroad to be indorsed on agreement.
152. Facilities for proving desertion so far as concerns forfeiture of wages or emoluments.
153. Desertion and absence without leave.
154. Cost of procuring imprisonment may, to the extent of £3, be deducted from wages.
155. Amount of forfeiture, how to be ascertained when seamen contract for the voyage.
156. Application of forfeitures.
157. Questions of forfeiture may be decided in suits for wages.
158. Penalty for false statement as to last ship or name.
159. Fines to be deducted from wages and paid to Superintendent of Mercantile Marine.
160. Penalty for enticing to desert or harboring deserter.
161. Penalty for obtaining passage surreptitiously.
162. On change of masters, documents hereby required to be handed over to successor.

Deaths occurring at Sea or Abroad.

163. Inquiry into cause of death on board.

Custody of Documents respecting Seamen.

164. Superintendents of Mercantile Marine to transmit and record documents, to permit inspection, to produce originals, and to give copies.

Official Logs.

165. Official log-books to be kept in forms sanctioned by Marine Board.
166. Entries to be made in due time.
167. Entries required in official log-book.
 - Convictions.
 - Offences.
 - Punishments.
 - Conduct, &c., of crew
 - Illnesses and injuries.
 - Marriages.
 - Deaths.
 - Births.
 - Quitting ship.
 - Wages of men entering navy.
 - Wages of deceased seamen.
 - Sale of deceased men's effects.
 - Collisions.
168. Entries, how to be signed.
169. Penalties in respect of official logs.
170. Entries in official logs to be received in evidence.

171. Official

Marine Board and Navigation Act.—1881.

171. Official logs to be delivered to Superintendent of Mercantile Marine.
 172. Official logs to be sent home in case of transfer of ship, and in case of loss.

PART III.**SAFETY AND PREVENTION OF ACCIDENTS.***Application to Foreign Ships.*

173. Application of Part III. of Act.

Unseaworthy Ships.

174. Sending unseaworthy ships to sea a misdemeanor.
 175. Power to detain unsafe ships, and procedure for such detention.
 176. Enforcing detention of ship.
 177. Penalty on taking detaining officer to sea.
 178. Constitution of Court of Survey for appeals.
 179. Power and procedure of Court of Survey.
 180. Rules for procedure of Court of Survey.
 181. Liability of Board and shipowner for costs and damages.
 182. Power to require from complainants security for costs.
 183. Supplementary provision as to detention of ship.

Foreign Ships Overloading.

184. Application to foreign ships of provisions as to detention.

Appeals on Refusal of certain Certificates to Ships.

185. Appeals on refusal of certain certificates to ships.

Scientific Referees.

186. Reference in difficult cases to scientific persons.

Cables and Anchors.

187. No chain-cable or anchor exceeding 168lbs. to be sold without being tested.
 188. Cables and anchors of alleged unseaworthy ships.

Ships' Draught and Clearside.

189. Ships' draught of water and clear side to be recorded.
 190. Particulars to be entered in official log.

Deck and Load Lines.

191. Marking of deck-lines.
 192. Marking of load-line on ships.
 193. Marking of load-line on coast-trade ships.
 194. Penalty for offences in relation to marks on ships.

Equipments.

195. Ships to be properly equipped.
 196. Penalties on Masters and owners, &c., neglecting to provide equipments.
 197. Officers of Customs not to clear ships not complying with the above provision.

Lights and Fog-signals and Meeting and Passing.

198. Enactment of regulations concerning lights, fog signals, and sailing rules.
 199. Regulations to be published.
 200. Owners and masters bound to obey regulations.
 201. Breach of regulations to imply wilful default of person in charge.
 202. Liability for infringement of regulations in case of collision.
 203. Duties of masters in case of collision.
 204. Inspection for enforcing regulations.
 205. Penalty for wrongfully using signals of distress.

Equipment of Steamships.

206. Equipment of steamships.
 Safety-valve.

*Fire-hose.**Signals*

Signals of distress and shelter for deck passengers.

207. Penalty for improper weight on safety valve.

Survey of Steamships.

208. Steamships to be surveyed twice in each year.
 209. Board to appoint surveyors and fix their remuneration.
 210. Surveyors to have power to inspect.
 211. Penalty on surveyors receiving fees unlawfully.
 212. Owners to have surveys made by surveyors, and surveyors to give declarations.
 213. Transmission of declarations to Secretary. Penalty for delay.
 214. Times appointed for surveys and transmission of declarations.
 215. Board to issue certificates.
 216. Issue and transmission of certificates.
 217. How long certificates to continue in force.
 218. Board may cancel certificates and require fresh declarations.
 219. Certificate to be placed in conspicuous part of ship.
 220. Ship not to proceed on her voyage without certificate.
 221. Penalty for carrying passengers in excess of number specified in certificate.
 222. Water and provisions.
 223. Forgery of declaration or certificate a misdemeanor.
 224. Surveyors to make returns of the build and other particulars of steamships, and owners and masters to give information for that purpose.
 225. Steamships with Board of Trade, colonial, or foreign certificates may be exempted from survey.
 226. Exemption of certain steamships from provisions with respect to survey.
 227. Owner or master carrying passengers in an exempted steamship liable to penalty.
 228. Masters and engineers of steamships with restricted certificates to hold certificates of competency or service.
 229. Penalty for not giving up cancelled certificates in certain cases.

Grain Cargoes.

230. Stowage of grain cargoes.

Deck Cargoes.

231. Space occupied by deck cargo to be liable to dues.
 232. Description of deck cargo that may be carried.

PART IV.**WRECKS, CASUALTIES, AND SALVAGE.***Accidents.*

233. Accidents to ships to be reported to Board.
 234. Notice to be given of apprehended loss of ship.
 235. Collisions to be entered in official log.

Inquiries into Shipping Casualties.

236. Inquiry may be instituted by Board.
 237. Inquiry before Court of Marine Inquiry.
 238. Person charged to have opportunity of making a defence.
 239. Costs of such investigation.
 240. Inquiries relating to missing ships.
 241. Re-hearing of inquiries and investigations.

Wreck

*Marine Board and Navigation Act.—1881.**Wreck.*

- 242. Appointment of receivers
- 243. Sunk or stranded ships to be removed.
- 244. Duty of receiver when any ship is stranded or in distress.
- 245. Powers of receiver in case of accident to any ship or boat.
- 246. All articles washed on shore to be delivered to the receiver.
- 247. Power of receiver to suppress plunder and disorder by force.
- 248. Certain officers to exercise powers of receiver in his absence.
- 249. Power, in case of a ship being in distress, to pass over adjoining lands with carriages.
- 250. Penalty on owners and occupiers of land refusing to allow carriages, &c., to pass over their land.
- 251. Power of receiver to institute examination with respect to ships in distress.
- 252. Rules to be observed by persons finding wreck.
- 253. Power for receiver to seize concealed wreck.
- 254. Notice of wreck to be given by receiver.
- 255. Goods deemed perishable, or of small value, may be sold immediately.
- 256. Payments to be made to receiver.
- 257. Disputes as to sums payable to receiver to be determined by Board.
- 258. In case of wreck of foreign ship, consul to be deemed agent of owners
- 259. Foreign goods found derelict to be subject to the same duties as on importation.
- 260. Goods saved from ships wrecked to be forwarded to the port of their original destination

Salvage.

- 261. Salvage in respect of services rendered.
- 262. Salvage for life may be paid by Board.
- 263. Disputes as to salvage, how to be settled.
- 264. Receiver may appoint a valuer in salvage cases.
- 265. Manner in which Justices may decide disputes.
- 266. Costs of arbitration.
- 267. Justices, &c., may call for documents and administer oaths.
- 268. Appeal to superior Courts.
- 269. Justices, &c., to transmit copy of proceedings and certificate of value to Court of Appeal.
- 270. Payment of salvage, to whom to be made in case of dispute as to apportionment.
- 271. Apportionment of salvage.
- 272. Manner of enforcing payment of salvage.
- 273. Power of receiver to sell property salvaged in case of non-payment.
- 274. Subject to payment of expenses, fees, and salvage, owner entitled to wreck.

Unclaimed Wreck.

- 275. Wreck unclaimed within a year may be sold.
- 276. Delivery of wreck by receiver not to prejudice title.
- 277. Penalty for plundering in cases of shipwreck, for obstructing the saving of shipwrecked property, and for secreting the same.
- 278. Penalty for selling wreck in foreign ports.

Salvage (General).

- 279. Voluntary agreement may be made.
- 280. Powers for Courts having Admiralty jurisdiction to apportion salvage.

PART V.*Pilotage.*

- 281. To determine qualifications of pilots.
To make regulations as to pilot boats.

To make regulations for the government of pilots.

To make regulations as to licences and certificates.

To make pilotage compulsory at any port or ports other than Port Adelaide.

To alter and reduce rate of pilotage.

- 282. Masters of foreign-going and intercolonial ships of sixty tons register and upwards, and masters of coast-trade ships of one hundred tons register and upwards, to employ a pilot at Port Adelaide.

- 283. Masters of ship when within ten miles to display signal and facilitate pilot getting on board.

- 284. Signals for pilots.

- 285. Power to alter rules as to signals.

- 286. Pilot boats, how to be provided.

- 287. Characteristics of pilot boats.

- 288. Duties of master of pilot boat.

- 289. Qualified pilot to display flag though not pilot boat.

- 290. Penalty on ordinary boat displaying pilot flag.

- 291. Registry of pilot's licence.

- 292. Copies of regulations to be furnished to qualified pilot, and to be produced by him.

- 293. Qualified pilot to produce licence to employer.

- 294. Licences to be delivered up when required, and returned on death.

- 295. Any person acting without licence liable to penalty.

- 296. Qualified pilot unable to board when entitled to pilotage.

- 297. Allowance to qualified pilot when taken out of his limits.

- 298. Services of pilot not required after having been demanded to be paid for.

- 299. Penalty on qualified pilot demanding improper rates.

- 300. Penalty on making false declaration as to draught or tonnage of ship, or falsifying marks.

- 301. Power of qualified pilot to supersede unqualified pilot.

- 302. Penalty on unqualified persons acting as pilots.

- 303. Occasions on which persons may act as pilots.

- 304. Liability for and recovery of pilotage dues.

- 305. Power of consignees to retain pilotage dues paid by them.

- 306. Of the offences by pilots.

- 307. Penalty on pilot endangering ship, life, or limb.

- 308. Penalty on person in charge of ship doing wilful injury.

- 309. Marine Board may revoke or suspend the licence of any pilot.

- 310. Settlement of difference as to draught or tonnage of ship.

- 311. Limitation of liability of owner where pilotage is compulsory.

Pilotage Exemption.

- 312. Certificates of exemption to be granted to masters of ships registered in Australia or New Zealand.
- 313. Master having certificate of exemption to hoist white flag.
- 314. Power to suspend, cancel, and re-issue certificate.

PART VI.*Lighthouses, Buoys, and Beacons.*

- 315. Management of lighthouses, buoys, and beacons to be vested in Board.

- 316. Board may fix lighthouse or mooring dues.

- 317. Liability

Marine Board and Navigation Act.—1881.

317. Liability to and recovery of light and mooring dues.
 318. Dues to be paid to Board.
 319. Ship not to be cleared without production of receipt for dues.
 320. Powers of consignees to recover light or mooring dues paid by them.
 321. Penalty for injuring lights, buoys, and beacons.

Prevention of False Lights.

322. Board may prohibit false lights.
 323. If not obeyed, Marine Board may abate such lights.

PART VII.

EXAMINATIONS AND CERTIFICATES OF MASTERS, MATES, AND ENGINEERS.

Certificates of Competency.

324. Examinations to be instituted for masters, mates, and engineers.
 325. Certificates of competency to be granted to those who pass.
 326. Certain ships to carry certificated masters and mates.
 327. Steamships to carry certificated engineers.
 328. Penalties on fraudulent use of certificates, &c.
 329. Form of certificates, grants, cancellation, &c., to be recorded.
 330. In case of loss, a copy to be granted.
 331. Penalties for false representations.
 For forging or altering.
 Or fraudulently using or lending any certificate.

Certificates of Service.

332. Certificates of service to whom deliverable.
 Master foreign-going and intercolonial ships.
 Mate foreign-going and intercolonial ships.
 Master coast-trade ships.
 Mate coast-trade ships.
 Master river steamships.
 First-class engineer.
 Second-class engineer.
 Third-class engineer.

PART VIII.

EXPLOSIVES.

Shipment and Discharge.

333. Vessels arriving with explosives to hoist pilot jack at the main.
 334. Ships to land explosives at magazine.
 Importer to give particulars of explosives.
 335. Penalty on ships found in port with explosives.
 336. Explosives on arrival to be reported.
 337. Explosives to be removed from ship to magazine between such hours as Board may appoint.
 338. Penalty on going alongside wharves.
 339. Explosives to be landed at the place appointed for the purpose.
 340. Explosives not to be shipped within certain limits.
 341. Explosives embarked from magazines to be landed as directed by Act.
 342. Boats carrying explosives to be licensed and provided with tarpaulins.
 343. Explosives imported in packages with other merchandise not duly marked, liable to seizure.
 344. No explosive, &c., to be shipped, &c., unless contents are marked on package.

Removal.

345. Explosives to be made secure in proper packages.
 346. Sale or transfer to be reported to the officer in charge.
 347. Regulating storage rent.
 348. Explosives may be sold for payment of charges.
 349. Quantity of explosives to be conveyed, and construction of carriages.
 350. Unlawful carriage of explosives.
 351. Explosives not to be carried in public vehicles or watermen's boats.

Licensing, &c.

352. Explosives only to be kept in authorised places.
 353. Magazines may be licensed.
 354. Licences for private magazines.
 355. Licences to be granted.

Carrying Explosives.

356. Passenger steamships prohibited from carrying explosives.
 357. Explosives found on board ships may be seized.
 358. Restrictions on carriage of explosives.
 359. Penalty for misdescription of explosives.
 360. Power to refuse to carry packages supposed to contain explosives.
 361. Power to throw overboard explosives.
 362. Forfeiture of explosives improperly sent.

Miscellaneous.

363. Expression "explosives" include every substance as defined herein.
 364. Board may define and classify explosives.
 365. Justice, on oath, to issue a search warrant.
 366. Board may appoint inspectors of magazines.
 367. Part VIII. of Act not to apply to H.M.'s ships; nor in any of H.M.'s magazines; nor to rockets, &c., on board ships; nor to explosives used by Her Majesty's forces.

PART IX.

Legal Procedure.

368. Act to be construed as an Act relating to the Customs, trade, and navigation.
 369. Punishment of offences, and recovery of penalties.
 370. Offence, where deemed to have been committed.
 371. Jurisdiction over ships lying off the coast.
 372. Sums ordered to be paid leviable by distress on ship.
 373. Application of penalties.
 374. Limitation of time in summary proceedings.
 375. Document proved without calling attesting witnesses.
 376. Service of order on master.
 377. Penalty on obstructing service on master of ship.
 378. Power of Judge of Supreme Court or Admiralty to arrest foreign ship that has occasioned damage.
 379. Power in certain cases to detain ship before application made to Judge.
 380. Who to be defendant to suit in such cases.

PART X.

MISCELLANEOUS.

Misconduct by Passengers in Steamships.

381. Penalties on drunken or disorderly passengers. On

Marine Board and Navigation Act.—1881.

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| <p>On persons molesting passengers.
On persons forcing way on board.
Or refusing to quit the ship.
Or travelling without paying fare.
Or wilfully going beyond proper distance.
Or refusing to quit ship on reaching his destination.
Or not exhibiting ticket or receipt when required.</p> <p>382. Penalty for injuring steamship or molesting crew.</p> <p>383. Manner of apprehending offenders.</p> <p>384. Penalty on persons refusing to give their name and address.</p> <p>385. Power to refuse or remove passengers who are drunk or misconduct themselves.</p> <p style="text-align: center;"><i>Miscellaneous.</i></p> <p>386. Restriction on deposit of ballast or rubbish.</p> <p>387. So far as is consistent with safety, person in charge of a ship must go to the assistance of another ship in distress.</p> <p>388. Corporation, &c., may grant sites for sailors' homes.</p> <p>389. Name of ship's managing owner or agent to be registered.</p> <p>390. Tonnage of British ship.</p> <p>391. Tonnage of foreign ships, and how to be ascertained.</p> | <p>392. Board to be the department to carry out the provisions of the Passengers Acts.</p> <p>393. Lights on works.</p> <p>394. Ships damaging works may be detained until damage paid for or deposit made.</p> <p>395. Wharves, buoys, beacons, &c., not to be placed within jurisdiction of Board without permission.</p> <p>396. Penalty for neglecting to pay dues and not observing regulations.</p> <p>397. <i>Gazette</i> to be evidence in certain cases.</p> <p>398. Licensed ships' surveyors.</p> <p>399. Reserves may be placed under control of Board.</p> <p>400. Exemption of Northern Territory.</p> <p>401. Governor may make regulations respecting lamps.</p> <p>402. Powers of Destitute Board in respect of seamen.</p> <p>403. Repeal.</p> |
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SCHEDULES REFERRED TO.

- Schedule A.
Schedule B.
Schedule C.
Schedule D.
Schedule E.

An Act to consolidate and amend the Acts relating to the Marine Board, and to amend the Laws relating to Merchant Shipping and Seamen, and for other purposes.

[*Reserved, November 18th, 1881.*]

WHEREAS it is expedient to consolidate and amend the Acts relating to the Marine Board, and to amend the laws relating to merchant shipping and seamen—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. This Act may be for all purposes cited as the "Marine Board and Navigation Act, 1881."

2. This Act shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the province, but after the signification of such pleasure the Governor may, by Proclamation in the *Government Gazette*, appoint a day on and after which this Act shall come into force.

3. In the construction and for the purposes of this Act, unless the same would be inconsistent with the subject matter or context, the words and expressions following shall have the respective meanings hereinafter assigned to them, that is to say—

"Buoys and beacons" shall include all other marks and signs of the sea :
"Carriage"

Preamble.

Short title.

Sustaining clause
under 32 & 33 Vic.,
c. 11, sec. 4. -

Interpretation.

Marine Board and Navigation Act.--1881.

“Carriage” shall include any wagon, cart, truck, vehicle, or other means of conveying goods or passengers by land, in whatever manner the same may be propelled :

“Collector of Customs” shall include the principal officer of Customs for the time being in any port in the province :

“Foreign-going ship” shall mean any ship trading or going without the limits of the province, not being an intercolonial ship :

“Harbormaster” shall mean the officer of the Marine Board charged with the administration of this Act at any port of the province, and of the By-laws or Regulations made thereunder :

“Coast-trade ship” shall mean any ship trading and going between any ports or places in the province, excepting, however, that portion of the said province known as the Northern Territory ; and shall, for the purposes of section 59 of this Act, include any ship trading on the River Murray or on any tributary thereof :

“Intercolonial ship” shall mean any ship trading or going between the colonies of New South Wales, Victoria, Queensland, New Zealand, Tasmania, or Western Australia, or that portion of the Province of South Australia known as the Northern Territory, and any place within the limits of the said province :

“Justice” shall mean any Justice of the Peace for the said province :

“Lighthouse” shall include floating and other lights exhibited for the guidance of ships :

“Master” shall include every person (except a pilot) having command or charge of any ship :

“Pilot” shall mean any person not belonging to a ship who has the conduct thereof :

“Port” shall include harbor, haven, roadstead, channel, and navigable creek or river :

“Qualified pilot” shall mean any person duly licensed to conduct ships to which he does not belong :

“Receiver” shall mean any person appointed, in pursuance of this Act, Receiver of Wrecks :

“Seamen” shall include every person (except masters, pilots, and apprentices duly indentured and registered) employed in any capacity on board any ship :

“Secretary” shall mean the Secretary of the Marine Board appointed under this Act, and shall include any officer for the time being duly authorised to act in that capacity :

“Ship”

Marine Board and Navigation Act.—1881.

“Ship” shall mean and include every description of vessel used in navigation not propelled by oars:

“Tackle,” used in relation to a ship, shall include all furniture and apparel thereof:

“Tidal water” shall mean any part of the sea or river within the ebb and flow of the tide at ordinary spring tides:

“Wharf” shall mean and include any quay, jetty, pier, landing place, platform, slip, basin, siding, dock, or other place at which goods may be legally landed, loaded, or unloaded:

“Wreck” shall include jetsam, flotsam, lagan, and derelict found in or upon the shores of the sea or any navigable river, lake, or tidal water:

“The Board” or “the said Board” shall mean the Marine Board of South Australia as constituted by this Act:

“The Treasurer” shall mean the Treasurer of the said province:

“Shipping casualty” shall include loss, abandonment, collision, accident, damage, and grounding:

“The Merchant Shipping Act, 1854,” shall mean the Act of Parliament of the United Kingdom of Great Britain and Ireland bearing that name:

“The Passengers Act, 1855,” shall mean the Act of Parliament of the United Kingdom of Great Britain and Ireland bearing that name.

4. This Act shall not apply to the following ships, that is to say— Act not to apply to certain ships.

- I. Her Majesty's ships of war and troopships, and transports hired by or on behalf of Her Majesty, not being merchant ships freighted wholly or in part for the voyage to or from South Australia:
- II. Ships belonging to Sovereign Powers in alliance with Her Majesty:
- III. Ships belonging to the Royal Yacht Squadron, and yachts or ships used solely for pleasure and not engaged in trade or the conveyance of passengers for hire, except as hereinafter provided:
- IV. Ships outfitting to or refitting from whale fisheries:
- V. Ships belonging to or used in the service of the Government of the Province of South Australia, except in so far as the several sections of this Act may, by order of the Treasurer, be made applicable to vessels belonging to the said Government.

5. This Act shall be divided into ten parts, namely.—

Division of Act.

PART 1.—Marine Board: its Incorporation, Constitution, and General Functions:

PART

Marine Board and Navigation Act.—1881.

- PART II.—Masters and Seamen :
 PART III.—Safety, and Prevention of Accidents :
 PART IV.—Wrecks, Casualties, and Salvage :
 PART V.—Pilotage :
 PART VI.—Lighthouses, Buoys, and Beacons :
 PART VII.—Examinations and Certificates of Masters, Mates, and Engineers :
 PART VIII.—Explosives :
 PART IX.—Legal Procedure :
 PART X.—Miscellaneous Matters.

PART I.

PART I.

INCORPORATION, CONSTITUTION, AND GENERAL
POWERS OF THE MARINE BOARD.

Existing Marine Board.

6. Until the first appointment of the President and Wardens of the Marine Board of South Australia under the provisions of this Act, the Marine Board of South Australia as heretofore existing by virtue of the "Marine Board Act of 1860," and Acts amending the same, shall be the Board within the meaning of this Act, but upon such appointment shall be dissolved.

Incorporation of Marine Board.

7. For the purpose of carrying into effect the provisions of this Act, there is hereby constituted a Board to be called the Marine Board of South Australia, to consist of a President and seven Wardens, who shall be a corporate body and have perpetual succession, and of whom any four shall form a quorum. The said Board shall have a common seal, and shall have inscribed thereon the words "The Marine Board of South Australia," with such device as the Governor may approve. At all meetings of the Board the President shall have a deliberative as well as a casting vote.

Appointment of Wardens.

8. The Governor shall appoint eight persons to be the President and first Wardens of the said Board, and the said Wardens shall hold their office for a period of three years from the date of the first appointment under this section. On the expiration of such three years, and on the expiration of every succeeding three years, the Governor shall in like manner appoint seven persons to be Wardens of the said Board, who shall hold their office for a period of three years.

Nomination of Wardens.

9. One of the persons to be so appointed as a Warden shall be appointed on the nomination of the South Australian Chamber of Commerce, Incorporated; another of the persons to be so appointed as aforesaid shall be appointed on the nomination of the Adelaide Underwriters' Association, Limited; and two of the persons to be so appointed as aforesaid shall (if duly qualified) be appointed on the nomination of the owners of ships as hereinafter mentioned: Provided that the nomination of each of the several persons so to be appointed

*Marine Board and Navigation Act.—1881.***PART I.**

appointed as last aforesaid shall be certified to the Governor as regards the South Australian Chamber of Commerce, Incorporated, under the common seal thereof, countersigned by the persons for the time being authorised to use the common seal of the corporation; and as regards the Adelaide Underwriters' Association, Limited, under the hand of the secretary, for the time being, of the said association; and as regards the owners of ships, under the hand of the Collector of Customs for the time being. All such nominations shall be made and certified to the Governor on or before a day to be named in a notice in the *Government Gazette*, signed by the Treasurer, calling on the said several bodies or persons to exercise their respective rights under this section before the day so named: Provided that if the said several bodies or persons, or any of them, shall fail to exercise their respective rights of nomination, whether under this or the succeeding section of this Act, before the days named in the respective notices mentioned in the said sections, such rights of nomination shall, for the time being, lapse, and it shall be lawful for the Governor to appoint a Warden or Wardens, who shall hold office during the same period, and in all respects as if he had been appointed on the nomination of such bodies or persons so making default as aforesaid.

10. The Governor may at pleasure suspend or remove the President or any Warden of the Marine Board, and any vacancy caused by the removal of the President or any Warden by the Governor shall be filled up as hereinafter directed. Any casual vacancy caused by the death, resignation, or removal by the Governor of the President or any Warden shall be filled by a person appointed by the Governor. If the vacancy be caused by the death, resignation, or removal of a Warden appointed on the nomination of the South Australian Chamber of Commerce, Incorporated, Adelaide Underwriters' Association, Limited, or the owners of ships, such vacancy shall, subject to the proviso of the last preceding section, be filled by a person nominated by such one of the said bodies or persons respectively, as nominated the vacating Warden; and in case of any such vacancy the Treasurer shall forthwith, by notice to be published in the *Government Gazette*, call upon such bodies or persons as may respectively be entitled to nominate a person to the vacancy to exercise their respective rights within a time to be named in such notice. Every person appointed President or Warden of the said Board, in pursuance of this section, shall hold his office so long only as the vacating President or Warden in whose place he shall have been appointed would have held his office had no such vacancy occurred.

Filling up of extraordinary vacancies.

11. Owners of ships, whether individuals or bodies corporate, registered at the Port of Adelaide or other Port of Registry in the said province, shall have votes at the nomination of a Warden of the said Board, according to the following scale; that is to say—every registered owner of not less than fifty tons in the whole of such shipping shall, at every nomination, have one

Qualification of electors.

*Marine Board and Navigation Act.—1881.***PART I.**

one vote for fifty tons; two votes for two hundred and fifty tons; three votes for four hundred and fifty tons; four votes for seven hundred and fifty tons; five votes for eleven hundred tons; six votes for fifteen hundred tons; and one vote for every five hundred tons above fifteen hundred tons owned by him, but the total number of votes of such owner shall not exceed ten; and for the purpose of ascertaining the qualification of such electors, the following rules shall be observed, that is to say—in the case of a ship registered in the name of one person, such person shall be deemed to be the owner; and in the case of a ship registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be, in proportion to their respective shares, and each of such persons shall be deemed to be the owner of the tonnage so apportioned to him; and in the case of a ship, or shares of a ship, registered jointly, without severance of interest, in the names of more persons than one, the tonnage shall, if it is sufficient, either alone or together with other tonnage (if any) owned by such joint owners, to give a qualification to each of them, be apportioned equally between the joint owners, and each of such joint owners shall be deemed to be the owner of the equal share so apportioned to him, but if it is not so sufficient, the whole of such tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the said Port of Adelaide, as is first named on the register; and in making any such apportionment as aforesaid, any portion may be struck off so as to obtain a divisible amount, and the whole amount of tonnage so owned by each person, whether in ships or shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification. The words “owner” or “owners,” “person” or “persons,” in this and the succeeding five sections shall be taken to include a body corporate or bodies corporate.

List of voters to be made out,

12. The Collector of Customs shall, on or before a day to be fixed by the Governor by Proclamation in the *Government Gazette*, and on the expiration of every succeeding three years, make out an alphabetical list of persons entitled to vote by virtue of this Act at the nomination of a Warden, containing the christian name, surname, and residence of each such person, or in the case of a body corporate the style or title of such corporation, and the number of votes to which he is entitled, and shall sign such list, and cause a sufficient number of copies thereof to be printed and to be exhibited in some conspicuous place at the Custom House at Port Adelaide, for two entire weeks next after such list has been made, and shall keep true copies of such list, and permit the same to be perused by any person without payment of any fee at all reasonable hours during the period last aforesaid.

Revision of lists.

13. The Special Magistrate presiding at the Local Court of Port Adelaide, shall, within twenty-one days after the day fixed by the Governor, as mentioned in the last preceding section, and on the expiration of every succeeding three years, revise the list described in

Marine Board and Navigation Act.—1881.

PART I.

in the last preceding section, at the Custom House at Port Adelaide, and shall give seven clear days' notice of such revision in the *Government Gazette*, and by affixing a notice thereof on or near to the doors of such Custom House, and shall make such revision by inserting in such list the name of every person who claims to have his name inserted therein, and gives satisfactory proof to the said Special Magistrate of such his right, and by striking out from such list the name of every person against the insertion of whose name therein a satisfactory objection shall have been established by proof to the Special Magistrate, adduced by any other person named in such list, and the decision of the said Special Magistrate with respect to every such claim or objection shall be conclusive. And the said Special Magistrate shall, immediately after the completion of such revision, sign his name at the foot of the list so revised, and such list so revised shall be the register of voters for nomination of a Warden of the said Board from the date of such revision until the next ensuing revision, and the said revised list, when so signed, shall be delivered to the Treasurer, who shall, if necessary, cause a sufficient number of copies thereof to be printed, and shall cause a copy to be delivered to every voter applying for the same, on payment of a sufficient fee. For the purposes of this section, the said Special Magistrate shall have power to summon witnesses and administer oaths, and any person neglecting to appear after being so summoned, or refusing to be sworn, shall incur a penalty not exceeding Ten Pounds.

14. The Collector of Customs, if required, shall, for the assistance of the said Special Magistrate in revising the said list, produce to him such registers, books, or documents in his possession or control as the Special Magistrate may deem necessary.

Registers to be produced.

15. Every person whose name is contained in such revised list, and no other person, shall be qualified to vote at the nomination of a Warden of the said Marine Board by the owners of ships. Corporate bodies may vote by their secretary or other authorised officers, and may in like manner do and execute all such acts, matters, and things as may be necessary or expedient for the purpose of being placed on the list of persons entitled to vote at the nomination of a Warden of the Board, and of objecting against the insertion of the name of any person in such list, and generally for the purpose of securing to such bodies corporate their rights of voting at the nomination of a Warden of the Board by the owners of ships.

Persons named in revised list qualified to vote.

16. No person shall be qualified to be nominated a Warden by the owners of ships unless his name is contained in such revised list, and unless he is, at the time of nomination, the registered owner of not less than one hundred tons of shipping; and if any person shall, after his appointment, at any time cease to be an owner of such quantity of tonnage, such person shall be deemed to have resigned his seat at the said Board: Provided, however, that the shipowners

Qualifications of nominated Wardens of the Marine Board.

*Marine Board and Navigation Act.—1881.***PART I.**

shipowners may nominate a master mariner one of their Wardens without such master mariner possessing the above qualifications: And provided also that a member of any corporate body whose name is contained in the list of persons entitled to vote at the nomination of a Warden of the Board by the owners of ships shall be deemed to be qualified to be nominated a Warden of the Board if the proportionate amount of the whole tonnage belonging to the corporate body, of which he is a member, represented by his shares therein, shall amount to one hundred tons of shipping.

Error in election not to vitiate acts of Board.

17. No act, matter, or thing done by the said Board shall be invalidated or otherwise prejudicially affected by reason of any irregularity or informality in the appointment of any Warden, or of any error in the list of voters hereinbefore mentioned, or any irregularity in the making or revising of such list, or by reason of any person acting as a Warden who is not duly qualified.

Warden of Board not to hold office under the Board.

18. No Warden of the Board shall hold any office under the said Board.

Powers of Board to be exercised within one league to seaward.

19. The powers, authorities, and jurisdiction of the Board shall extend and be exerciseable in and over the limits of the said province, and the dependencies thereof, and to the distance of one nautical league to seaward from low watermark along the coast line of the said province or of such dependencies.

Board may appoint officers.

20. The Board may, with the consent of the Treasurer, appoint and employ such Secretary, engineers, shipwright surveyors, engineer surveyors, clerks, examiners, messengers, and other officers or persons, except solicitors, at such reasonable salary, pay, or reward as to such Board may seem meet, and may, from time to time, with the like consent, dismiss and discharge such officers or persons, or any of them, and appoint others in their place: Provided that the salaries or rewards of all persons appointed and employed by such Board under the authority of this Act shall be annually voted by Parliament.

Certificates and documents purporting to be sealed or signed in a given manner to be received in evidence.

21. All documents whatever, purporting to be issued by or under the direction of the Board, and purporting either to be sealed with the seal of such Board, or to be signed by the Secretary, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the said Board without further proof, unless the contrary be shown; and all documents purporting to be certificates issued by the Board in pursuance of this Act, and to be sealed with the seal of such Board, as aforesaid, or to be signed by the Secretary of such Board, shall be received in evidence, and shall be deemed to be such certificates without further proof unless the contrary be shown.

Owners and masters of ships to use proper forms.

22. In all matters to which this Act relates the owners and masters of ships shall use and employ the proper forms of notices, books, allotment notes, certificates, returns, accounts, statements, releases, discharges, declarations, and licences, issued by or under the

*Marine Board and Navigation Act.—1881.***PART I.**

the sanction of the Board, with such necessary alterations only as shall be requisite to effect the object intended. Such forms shall be sealed with the seal of the Board, or marked with some distinguishing stamp authorised by the Board.

23. The Board shall, themselves, or by their servants, or agents, issue and sell, or otherwise distribute the authorised forms of documents mentioned in the last preceding section, or may appoint some person or persons to sell or distribute the same; and all such documents shall, if purporting to have affixed thereon or thereto the seal of the Board or other distinguishing stamp, be taken to be in a form duly authorised without further evidence.

Board may issue forms.

24. Every such document which shall not be in a form authorised by the Board shall be inadmissible as evidence on behalf of any owner or master in any civil proceeding in any Court of the province, and may be disregarded by the Board and their officers, who shall not be required to notice or act upon the same in any way.

Forms unauthorised by Board to be inadmissible as evidence.

25. Every person who forges, assists in forging, or procures to be forged, the seal of the Board or other distinguishing stamp as aforesaid, or who fraudulently uses or alters, assists in fraudulently using or altering, or procures to be fraudulently used or altered, any form issued by the Board, with the view of evading any of the provisions of this Act, or any condition contained in such form, shall, for each offence, be deemed guilty of a misdemeanor.

Penalties for forgery of seal and fraudulent alteration of forms.

26. The Board shall have within its jurisdiction:—

General duties of Board.

- i. The management and superintendence of all matters relating to ports:
- ii. The regulation of shipping and seamen:
- iii. The regulation of pilotage and the licensing, appointment, and removal of pilots:
- iv. The management and superintendence of lighthouses, buoys, and beacons, and such wharves, jetties, magazines, ships, dredgers, and barges, as may have been or may from time to time by notice published in the *Government Gazette* be placed under their control by the Governor:
- v. The placing and removal of moorings:
- vi. The establishment of light, jetty, tonnage, mooring, and other dues:
- vii. The regulation of, and granting and charging for licences to, watermen, boatmen, ballastmen, and others:
- viii. The regulation of steam and other ferry boats, harbor and river steamers:
- ix. The regulation and control of all dockyards, which are, or may hereafter

*Marine Board and Navigation Act.—1881.***PART I.**

hereafter be, vested in her Majesty, Her heirs and successors, and the deepening and improvement of all ports:

- x. The examination of, and issue of, certificates of competency or service to masters, mates, and engineers of ships:

And shall at all times furnish such reports, estimates, accounts, vouchers, and documents, relating to any matter entrusted or proposed to be performed by it, as the Treasurer shall, by any writing under his hand addressed to the Board or Secretary, from time to time require.

Transfer of duties of Board to department of Engineer-in-Chief.

27. The Governor may, by regulations to be published in the *Government Gazette*, from time to time transfer any duty by the last preceding clause imposed upon the Board to the department of the Engineer-in-Chief or of any other officer; and he, by writing under his hand, may direct the Board to do, or abstain from doing, any act which might otherwise be done by the Board, as may seem to him advisable.

Lands may be leased for certain purposes.

28. The Marine Board may, with the consent of the Treasurer, grant leases of any lands vested in them, which may not be otherwise required for the accommodation of shipping, for yards for ship-building, boat-building, storing of timber, storing of coal, erection of workshops or foundries, or for other purposes connected with shipping, subject to such rent reserved and such covenants, provisoes, and conditions, and for such term, not exceeding twenty-one years, as may seem fit.

Board may authorise erection of wharves, &c., in any port, and may lease wharves.

29. The Board, with the consent of the Treasurer, may grant to the owner or occupier of any land fronting and immediately adjoining any portion of any port in the said province, a licence to make any wharf, embankment, wall, or other work, immediately in front of his land and into the body of the said port, upon payment of such fair and reasonable consideration, and subject to such other conditions and restrictions as the Board think fit. The Board with the like consent may lease any wharf under their control for any term not exceeding twenty-one years, and at such rent, and subject to such covenants and conditions as may seem fit.

Board may appoint inspectors.

30. The Board may appoint any person to act as an inspector to report to them upon the following matters, that is to say—

- i. Upon the nature and causes of any accident or damages which any ship has sustained or caused, or is alleged to have sustained or caused:
- ii. Whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with:
- iii. And generally upon any matter whatsoever in relation to which jurisdiction, authority, or power is by this Act conferred upon the Board.

Powers of Board, inspectors, and surveyors.

31. The Board, and any Warden or other person deputed to act in

Marine Board and Navigation Act.—1881.

in their behalf, and every inspector and surveyor duly appointed, shall have and exercise the following powers, that is to say—

PART I.

- i. They may, at all reasonable times, go on board any ship or vessel of whatsoever description, to which any of the provisions of this Act extend, for the purpose of examining the hull and machinery, and making any report thereon required by the said Board :
- ii. They may inspect any boat's equipment, or materials on board or belonging to any such ship or vessel to which the provisions of this Act extend :
- iii. They may go on board any such ship or vessel and inspect the same, for the purpose of inquiring into or reporting upon the nature and causes of any accident or damage which such ship or vessel has sustained or caused, or is alleged to have sustained or caused :
- iv. They may enter and inspect any premises the entry or inspection of which may appear to them requisite for the purpose of any report :
- v. They may, by summons under their hand, require the attendance of all such persons as they may think fit to call before them on any inquiry or report authorised by the Board, and may require answers or returns to any inquiries they may think fit to make :
- vi. They may require and enforce the production of all books, papers, log-books, certificates, accounts, agreements, or other documents relating to such inquiry or report :
- vii. They may administer oaths, or in lieu thereof require any person examined to make and subscribe a statutory declaration of the truth of the statements made in his examination.

32. Every witness summoned as aforesaid shall be paid such expenses as in the opinion of the Board Warden, or other person deputed to act in their behalf, inspector or surveyor would be allowed to a witness if attending upon subpoena to give evidence before the Supreme Court, and no dispute as to the sufficiency of such expenses shall warrant such witness in disobeying such summons, or in refusing to submit to such examination ; but such dispute shall be referred by the Board to the Master of the Supreme Court, who, on a request made to him for that purpose under the hand of the Secretary, shall ascertain and certify the proper amount of such expenses ; and every person who refuses to attend as a witness upon any report or inquiry to be held under the provisions of this Act or before any such inspector or surveyor, after having been required so to do in the manner hereby directed, and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any

Witnesses to be
allowed expenses.

Penalty for refusing
to give evidence.

*Marine Board and Navigation Act.—1881.***PART I.**

any return, or to produce any document in his possession, or to make or subscribe any declarations which any such inspector or surveyor is hereby empowered to require, shall for each such offence incur a penalty not exceeding Twenty Pounds.

Power to enforce attendance of witnesses.

33. If it shall upon oath be established to the satisfaction of any Justice that any witness who has been summoned to attend upon any report, investigation, or inquiry under this Act is about to quit the province, or refuses to attend upon such report, investigation, or inquiry, or that any person believed to be a material witness upon any such report, investigation, or inquiry, is evading service of any summons, or that it is probable that any such person will not attend to give evidence without being compelled so to do, it shall be lawful for such Justice by warrant under his hand to require all peace officers to bring up such witness or person upon such report, investigation, or inquiry, and in the meantime to lodge such witness or person in Her Majesty's Gaol at Adelaide, or in such other gaol as may be named in the said warrant, unless and until he shall have given sufficient security by way of bond or recognizance to the satisfaction of a Justice to secure his attendance.

Penalty for obstructing inspectors or surveyors in the execution of their duty.

34. Every person who wilfully impedes any such inspector or surveyor appointed as aforesaid, or any Warden deputed by the Board, or any person on whom by this Act the powers of an inspector or surveyor are conferred, in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding Ten Pounds, and may be seized and detained by such inspector, surveyor, or other person, or by any person or persons whom he may call to his assistance, until such offender can be conveniently taken before some Justice or other officer having proper jurisdiction.

Marine Board may inspect documents and muster crews.

35. The Board may exercise the following powers, that is to say—

- I. They may require the owner, master, or any of the crew of any ship to produce any log-books or other documents relating to such ship or her crew or any member thereof in their respective possession or control:
- II. They may require any such master to produce a list of all persons on board his ship, and take copies of such log-books or documents, or of any part thereof:
- III. They may muster the crew of any such ship:
- IV. They may summon the master or any seaman to appear and give any explanation concerning such ship or her crew, or the said log-books or documents.

Penalty for refusing to produce documents, &c.

36. If, upon requisition duly made by the Board, any person refuses or neglects to produce any such log-book or document as he is hereinbefore required to produce, or to allow the same to be inspected or copied as aforesaid, or impedes any such muster of

*Marine Board and Navigation Act.—1891.*PART I.

of a crew as aforesaid, or refuses or neglects to appear or give any explanation which he is hereinbefore required to give, or knowingly misleads or deceives the Board, he shall for each such offence incur a penalty not exceeding Twenty Pounds.

37. The Board, with the consent of the Governor, may confirm, repeal, or vary wholly or in part, any by-laws or regulations heretofore in force under any of the Acts hereinafter repealed, and may make and afterwards from time to time alter and repeal such by-laws and regulations as to them shall seem necessary for the following purposes—

Board may make
by-laws and
regulations.

For the management and conduct of their meetings for the dispatch of business; for the control, supervision, and guidance of their officers, and of all other officers over whom, by virtue of this Act, they have control:

For the receipt by and discharge from ships of ballast in any port or place in the said province; for the licensing of owners of ballast lighters; and for fixing the places in any such port where such ballast shall be excavated or raised:

For the carriage and storage of explosives in steamships and passenger ships:

For the safe disposal of explosives arriving within the said province; for the protection of any port from damage by reason of any such explosives; for licensing boats and carriages for the removal of explosives; for fixing or licensing magazines, either afloat or ashore; for fixing the quantity and determining the nature and mode of storage of explosives which may be placed in any such magazine; and for fixing fees to be paid for any certificate, licence, or other document issued under the Eighth Part of this Act:

For providing the necessary forms of notices, books, certificates, returns, agreements, statements, discharges, declarations, licences, and other documents and forms authorised or required by this Act:

For the shipment, transhipment, and discharge of explosives, and for the conveyance to, receipt at, or delivery from, or storage in, any Government or other magazines, either afloat or ashore, of any explosives:

For the management and conduct of the business required to be carried on at the Mercantile Marine Offices, and for the government of the officers thereof:

For the engagement and discharge of seamen:

For prescribing and regulating the lights and signals to be carried by any ship within the limits of any port, and for the better prevention of collisions within such limits; for the use of distress or other signals; for the use by ships and boats of
lights,

*Marine Board and Navigation Act.—1881.***PART I.**

lights, boats, life-buoys, and life-jackets, or other means of saving life at sea:

- For the use of lights and the employment of watchmen on board ships and boats when moored or anchored in any port or at any wharf; and for regulating the communication between vessels or between wharves and vessels by means of gangways or otherwise:
- For the carriage of animals and the provision of shelter for deck passengers on board any intercolonial or home-trade ship:
- For regulating the proceedings and the performance of the duties of shipwright surveyors, engineer surveyors, and inspectors:
- For the survey of steamships by engineer surveyors and shipwright surveyors; for fixing and appointing the time, places, and manner of making such surveys; for fixing the fees, travelling or other expenses, to be paid in respect of such surveys; and for determining the persons by whom and the conditions under which such payments shall be made:
- For the regulation of pilotage, and for appointing pilot stations, and for regulating the conduct and management thereof:
- For appointing the place or places where such pilots shall board and take charge of ships entering, intending to enter, or departing from, any port in the said province:
- For regulating the issue of licences to pilots, and for ensuring the good conduct and ability of the holders of such licences:
- For the examination of and issue of pilotage exemption certificates to masters of ships:
- For regulating the conduct, management, superintendence, and protection of all lighthouses, buoys, beacons, jetties, sea and other harbor works, and other sea, river, or harbor marks:
- For the mooring, unmooring, or removal of ships in any port in the said province:
- For the licensing, control, and management of steam or other ferry boats, and all boats plying for hire either for goods or passengers:
- For preventing the improper and unauthorised use of boats and vessels, and for preventing damage and trespass to boats and vessels and the gear and tackle thereof, whether afloat or ashore:
- For the granting, and suspension or withdrawal, of licences to watermen, boatmen, harbor pilots, bargees, and others, and for fixing the fares or other remuneration to be charged or received by such watermen, boatmen, harbor pilots, bargees, or others:
- For fixing and collecting warehouse, jetty, tonnage, mooring, and other

*Marine Board and Navigation Act.—1881.***PART I.**

other dues, and from time to time altering, increasing, or diminishing the same :

For regulating the practice of Courts of Survey, as provided for in Part III. of this Act :

For the prevention of the overloading of either steam or sailing ships, and of overcrowding of sailing ships with passengers ; for securing the safety of passengers and proper accommodation for passengers on board of sailing ships, and generally for regulating all other matters relating to the protection of life and property of passengers and others, as the case may be :

For licensing tugs for conducting ships into or out of any port, and for fixing the fees to be paid for such licences :

For the erection of wharves, and for granting and determining the conditions of leases of wharves the property of Her Majesty, or wharves erected, or to be erected, by any person or persons within the jurisdiction of the said Board :

For fixing the fees and charges to be taken or made in respect of the various matters authorised by this Act :

For affixing penalties to any breach of any by-law or regulation by this Act authorised to be made, not exceeding for any such offence the sum of Fifty Pounds, nor being less than Five Pounds, except in those cases where this Act affixes a special penalty in respect of any specific offence :

And generally for duly administering and carrying out the powers confided to them by this Act :

And all such by-laws and regulations, or notice of the confirmation, alteration, or repeal of any heretofore existing by-laws or regulations, shall—

- I. Be published in the *Government Gazette* :
- II. Take effect from a date to be therein specified :
- III. Be deemed to be incorporated with this Act, and shall be of the same force and effect as though the provisions of such by-laws and regulations were expressly enacted in this Act : and
- IV. Be laid before both Houses of Parliament within one calendar month after making the same, if Parliament be then sitting, or if Parliament be not then sitting, within one calendar month after the commencement of the then next Session of Parliament :

And if either House of Parliament shall, by resolution passed within fourteen days next after any such by-laws and regulations as aforesaid shall be laid before it, resolve that the whole or any part thereof ought not to continue in force, in that case the whole of such by-laws and

*Marine Board and Navigation Act.—1881.***PART I.**

and regulations, or such part or parts thereof as may be specified in the resolution (as the case may be), shall, from and after the passing of such resolution, cease to be binding: Provided always, that the powers of making by-laws and regulations, or imposing fees, charges, fines, and penalties respectively hereby given shall not limit or repeal any specific power of making by-laws or regulations given by this Act, but in every such case the powers hereby conferred shall be deemed to be auxiliary thereto.

PART II.**PART II.****MASTERS AND SEAMEN.**

Application of Part II.

38. The second part of this Act shall apply to all British ships registered at, trading with, or being at any place within the said province, and to the owners, masters, mates, and crews thereof:

The following ships, that is to say—

Fishing vessels and yachts partly exempt from Part II.

- I. Registered sea-going ships exclusively employed in fishing on the coast of the province, and
- II. Ships used as pleasure yachts, not engaged in trading or plying for hire—

shall be subject only to so much of the Second Part of this Act as relates to the delivery or transmission of lists of crews to Superintendents of Mercantile Marine.

Mercantile Marine Offices.

Marine Board to establish Mercantile Marine Offices.

39. The Marine Board, with the consent of the Treasurer, may establish a Mercantile Marine Office or Offices in any port in the province, and may for that purpose, subject as herein mentioned, appoint, and from time to time remove and re-appoint, superintendents of such offices, to be called Superintendents of Mercantile Marine, with any necessary deputies, clerks, and servants, and shall have complete control over the same; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before a Superintendent of Mercantile Marine.

Business of such offices generally.

40. It shall be the business of Superintendents of Mercantile Marine—

- I. To afford facilities for engaging seamen by keeping registries of their names and characters:
- II. To superintend and facilitate their engagement and discharge in manner hereinafter mentioned:
- III. To facilitate the making of apprenticeships to the sea service:
- IV. To perform such other duties relating to merchant seamen and merchant ships as are hereby or may hereafter, under the powers herein contained, be committed to them.

41. The

Marine Board and Navigation Act.—1881.

PART II.

41. The fees payable upon all engagements and discharges effected before Superintendents of Mercantile Marine shall be conspicuously placed in the Mercantile Marine Offices; and all Superintendents of Mercantile Marine, their deputies, clerks, and servants, may refuse to proceed with any engagement or discharge until the fees payable thereon are paid.

Fees to be paid upon engagements and discharges.

42. Every owner, master, or agent of a ship engaging or discharging any seamen or seaman in a Mercantile Marine Office, or before a Superintendent of Mercantile Marine, shall pay to the Superintendent of Mercantile Marine the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct, in respect of each such engagement or discharge, from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums to be specified in that behalf by the Marine Board: Provided that, if in any case the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the Superintendent of Mercantile Marine in addition to such fee.

Masters to pay fees and to deduct part from wages.

Proviso as to excess.

43. Any Superintendent of Mercantile Marine, Deputy Superintendent of Mercantile Marine, or any clerk or servant in any Mercantile Marine Office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall, for every such offence, incur a penalty not exceeding Twenty Pounds, and shall also be liable to be dismissed from his office by the Board.

Penalty on Superintendent of Mercantile Marine taking other remuneration.

44. The Marine Board may from time to time dispense with the transaction before a Superintendent of Mercantile Marine, or in a Mercantile Marine Office, of any matters required by this Act to be so transacted; and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a Superintendent of Mercantile Marine, or in a Mercantile Marine Office.

Dispensation with transaction before a Superintendent of Mercantile Marine.

Apprenticeships to the Sea Service.

45. All Superintendents of Mercantile Marine shall, if applied to for the purpose, give to any parents or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined in that behalf by the Board.

Superintendents of Mercantile Marine to assist in binding apprentices, and may receive fees.

46. In the case of every boy bound apprentice to the sea service by his parent, the indenture shall be executed by the boy and the person to whom he is bound in the presence of, and shall be attested by, a Superintendent of Mercantile Marine; but, if the boy be bound by

Indentures of boys bound apprentice to sea service to be witnessed by a Superintendent of Mercantile Marine, a

*Marine Board and Navigation Act.—1881.***PART II.**

Special Magistrate,
or two Justices.

by any other person, then the indenture shall be attested by a Special Magistrate or two Justices, who shall ascertain that the boy has consented to be bound, and has attained the age of thirteen years, or has obtained a certificate of having passed the compulsory standard of education prescribed by law, and is of sufficient health and strength, and that the person to whom the boy is to be bound is a proper person for the purpose.

Indentures of
apprenticeship to be
in duplicate and
recorded.

47. All indentures of apprenticeship to the sea service shall be in duplicate; and every person to whom any boy whatever is bound as an apprentice to the sea service in the province shall, within seven days after the execution of the indenture, take or transmit the same to the nearest Superintendent of Mercantile Marine, who shall retain and record one copy, and shall indorse on the other that the same has been recorded, and shall re-deliver the same to the master of the apprentice; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall, within seven days after such assignment, cancellation, death, or desertion, if the same happens within the province, or, if the same happens elsewhere, so soon afterwards as circumstances permit, notify the same to the said Superintendent of Mercantile Marine to be recorded; and every person who fails to comply with the provisions of this section shall incur a penalty not exceeding Ten Pounds.

Apprentices and their
indentures to be
brought before
Superintendent of
Mercantile Marine.

48. The master of every foreign-going ship or intercolonial ship shall, before carrying any apprentice to sea from any place in the province, cause such apprentice to appear before the Superintendent of Mercantile Marine before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof (if any); and the name of such apprentice, with the date of the indenture and of the assignment or assignments thereof (if any), and the name of the port or ports at which the same have been registered, shall be entered on the agreement; and for any default in obeying the provisions of this section the master shall, for each offence, incur a penalty not exceeding Five Pounds.

Engagement of Seamen.

Licence of persons to
procure seamen.

49. The Board may from time to time license persons to supply seamen or apprentices for merchant ships in the province. Any such authority or licence may be granted and revoked on such terms and conditions as the Board think proper.

Penalty for supplying
seamen without
licence.

50. 1. If any unauthorised person, that is to say, any person not so licensed, or not being the owner or master or mate of the ship, or a servant in constant employment of the owner, or a Superintendent of Mercantile Marine, engages or supplies any seaman or apprentice to be entered on board any ship, or offers by advertisement or otherwise to procure employment for any person as apprentice or seaman on any ship: or,
11. If

*Marine Board and Navigation Act.—1881.***PART II.**

- II. If any person employs any such unauthorised person for the purpose of engaging or supplying any seaman or apprentice for any ship,

Penalty for employing unlicensed persons.

every such person shall, for each such offence, incur a penalty not exceeding Twenty Pounds.

- III. If any person receives or accepts to be entered on board any ship any seaman or apprentice who has been engaged or supplied in contravention of the provisions of this section he shall, for every seaman or apprentice so received or accepted, incur a penalty not exceeding Twenty Pounds, unless he shows, to the satisfaction of the Court before which he is charged, that he did not know that such seaman or apprentice had been engaged or supplied in contravention as aforesaid, and that he could not, with reasonable diligence, have obtained such knowledge.

Penalty for receiving seamen illegally supplied.

51. If any person demands or receives, directly or indirectly, from any seaman or apprentice to the sea service, or from any person seeking employment as a seaman or apprentice to the sea service, or from any person on his behalf, any remuneration whatever other than the prescribed fees for providing him with employment, he shall, for every such offence, be liable to a penalty not exceeding Ten Pounds; but nothing in this Act shall preclude any owner or master of a ship from receiving a premium with an apprentice, provided the amount of such premium is inserted in the indenture of apprenticeship.

Penalty for receiving unauthorised remuneration from seamen.

52. The master of every ship, except coast-trade ships of less than eighty tons registered tonnage, shall enter into an agreement with every seaman whom he carries to sea from any port in the province as one of his crew in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Board, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say—

Agreements to be made with seamen shall contain certain particulars.

- I. The nature, and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world (if any) to which the voyage or engagement is not to extend:
- II. The number and description of the crew, specifying how many are engaged as sailors:
- III. The time at which each seaman is to be on board to begin work:
- IV. The capacity in which each seaman is to serve:
- V. The amount of wages which each seaman is to receive:
- VI. A scale of the provisions which are to be furnished to each seaman:
- VII. Any

*Marine Board and Navigation Act.—1881.***PART II.**

VII. Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Marine Board as regulations proper to be adopted, and which the parties agree to adopt:

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case, as to allotment of wages, and may contain any other stipulations which are not contrary to law: Provided that if the master of any ship belonging to the United Kingdom or any British Possession has an agreement with his crew made in due form according to the law of the United Kingdom or the British Possession to which such ship belongs or in which her crew were engaged, and engages single seamen in the province, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the Board.

Agreements with
fishermen.

53. The owner or master of any ship engaged in fishing off the coast of the said province, may enter into an agreement with any person employed in such ship that such person shall be remunerated wholly by a share in the profits of the fishing adventure.

Every such agreement shall be in writing or in print, or partly in writing and partly in print, and shall be signed by the contracting parties in the presence of a Superintendent of Mercantile Marine.

The Superintendent shall, before such agreement is signed, read, and if necessary explain the same to the contracting parties, and shall attest the signature of the agreement, and certify that it has been read to and agreed to by the contracting parties.

Any such agreement, if made in the manner by this section required, shall be valid and binding on all the contracting parties, notwithstanding anything contained herein to the contrary.

For foreign-going
ships, and inter-
colonial ships, such
agreements when
made in the province,
except in special cases,
to be made before and
attested by a
Superintendent of
Mercantile Marine.

54. In the case of all foreign-going ships and intercolonial ships, the following rules shall be observed with respect to agreements, that is to say—

I. Every agreement made in the province (except in such cases of agreements with substitutes as are hereinafter specially provided for) shall be signed by each seaman in the presence of a Superintendent of Mercantile Marine:

To be explained to
seamen.

II. Such Superintendent of Mercantile Marine shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same, before he signs it, and shall attest each signature:

To be in duplicate.

III. When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the Superintendent of Mercantile Marine, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently

Marine Board and Navigation Act.—1881.

PART II.

quently to the first departure of the ship, and shall be delivered to the master:

- iv. In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost, within twenty-four hours of the ship's putting to sea, by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some Superintendent of Mercantile Marine duly appointed in the manner hereinafter specified; and, whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures:

Provision for substitutes.

- v. Where the agreement is signed at any place other than a Mercantile Marine Office, the extra expense, if any, caused by the attendance of the Superintendent of Mercantile Marine, or of his deputy, at such place, shall be borne by the ship.

Extra expense for signing to be borne by ship.

55. In the case of foreign-going ships, or intercolonial ships, making voyages averaging less than three months in duration, running agreements with the crew may be made to extend over two or more voyages, or for a specified time, so that no such agreement shall extend beyond six months from the date thereof, or the first arrival of the ship at her port of destination in the province after the termination of such agreement, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships, or intercolonial ships; and every person engaged thereunder, if discharged in the province, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships, or intercolonial ships.

Foreign-going ships, or intercolonial ships, making short voyages may have running agreements.

56. The master of every foreign-going ship, or intercolonial ship, for which such a running agreement as aforesaid is made, shall, upon every return to any port in the province before the final termination of the agreement, discharge or engage before the Superintendent of Mercantile Marine at such port, any seaman whom he is required by law so to discharge or engage, and shall, upon every such return, indorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made, or are intended to be made, before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so indorsed to the Superintendent of Mercantile Marine; and any master who wilfully makes a false statement in such indorsement shall

Engagement and discharge of seamen in the meantime.

*Marine Board and Navigation Act.—1881.***PART II.**

shall incur a penalty not exceeding Twenty Pounds; and the Superintendent of Mercantile Marine shall also sign an indorsement on the agreement, to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so indorsed to the master.

Fees to be paid on such running agreements.

57. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships, or intercolonial ships, which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In coast-trade ships agreements may be entered into before a Superintendent of Mercantile Marine or other witness.

58. In the case of coast-trade ships, crews or single seamen may, if the master thinks fit, be engaged before a Superintendent of Mercantile Marine in the manner hereinbefore directed with respect to foreign-going ships and intercolonial ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

Special agreements for coast-trade ships belonging to same owners.

59. In cases where several coast-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for coast-trade ships shall be applicable to agreements made in pursuance of this section.

Penalty for shipping seamen without agreement duly executed.

60. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master, in the case of a foreign-going ship, or intercolonial ship, and the master or owner, in the case of a coast-trade ship, shall for each such offence incur a penalty not exceeding Five Pounds.

Changes in crew to be reported.

61. The master of every foreign-going ship, or intercolonial ship, of which the crew has been engaged before a Superintendent of Mercantile Marine shall, before finally leaving the province, sign and send to the nearest Superintendent of Mercantile Marine a full and accurate statement, in proper form, of every change which takes place in his crew before finally leaving the province, and in default shall for each offence incur a penalty not exceeding Five Pounds; and such statement shall be admissible in evidence, subject to all just exceptions.

62. The

Marine Board and Navigation Act.—1881.

62. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships, and intercolonial ships, that is to say—

- i. The master of every foreign-going ship, or intercolonial ship, shall, on signing the agreement with his crew, produce to the Superintendent of Mercantile Marine before whom the same is signed the certificates of competency or service which the said master and his mate or mates, and, in the case of steamships, the engineer or engineers are by this Act required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the Superintendent of Mercantile Marine shall sign and give to the master a certificate to that effect:
- ii. In the case of running agreements for foreign-going ships and intercolonial ships, the Superintendent of Mercantile Marine shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the Superintendent of Mercantile Marine the certificate of competency or service of any first, second, or only mate, and, in the case of steamships, of the engineer or engineers then first engaged by him, as by this Act required, a certificate to that effect:
- iii. The master of any foreign-going ship, or intercolonial ship, shall, before proceeding to sea, produce the certificate so to be given to him by the Superintendent of Mercantile Marine as aforesaid to the Collector of Customs, and no officer of Customs shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate is produced:
- iv. The master of every foreign-going ship, or intercolonial ship, shall, within forty-eight hours after the ship's arrival at any port in the province, or upon the discharge of the crew, whichever first happens, deliver such agreement to a Superintendent of Mercantile Marine at the place; and such Superintendent of Mercantile Marine shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall clear inwards any foreign-going ship or intercolonial ship without the production of such certificate:

And if the master of any foreign-going ship or intercolonial ship fails to deliver the agreement to a Superintendent of Mercantile Marine at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding Five Pounds.

63. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for coast-trade ships, that is to say—

- i. In

PART II.

Rules as to production of agreements and certificates of masters, mates, and engineers of foreign-going ships and intercolonial ships.

Rules as to production of agreements and certificates for coast-trade ships.

*Marine Board and Navigation Act.—1881.***PART II.**

- I. In the case of coast-trade ships of more than eighty tons registered tonnage, no agreement, except as hereinafter provided, shall extend beyond six months from the date thereof, or the first arrival of the ship at her final port of destination in the province after such date, or the discharge of cargo consequent upon such arrival:
- II. The master or owner of every such ship shall, within twenty-one days after the termination of every agreement, transmit or deliver the same to some Superintendent of Mercantile Marine in the province, and shall also, in the case of coast-trade passenger ships, produce to the Superintendent of Mercantile Marine the certificates of competency or service which the said master and his mate or mates, and, in the case of steamships, the engineer or engineers, are by this Act required to possess:
- III. The Superintendent of Mercantile Marine shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of Customs shall grant a clearance or transire for any such ship as last aforesaid without the production of such certificate; and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until the said certificate is produced:

And if the agreement for any coast-trade ship is not delivered or transmitted by the master or owner to a Superintendent of Mercantile Marine at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding Five Pounds.

Owner or agent of coast-trade ships may enter into time agreements.

64. The owner of coast-trade ships or his agent may enter into time agreements, in proper form, with individual seamen to serve in any one or more such ships belonging to him for any period not exceeding six months: Provided always that a duplicate of each agreement entered into under the provisions of this section be forwarded to the Superintendent of Mercantile Marine of the port at which the ship is registered within forty-eight hours after it has been entered into; and if such duplicate of agreement is not forwarded at the time and in the manner hereby directed, such owner or agent shall for every default incur a penalty not exceeding Five Pounds.

Alterations to be void unless attested to have been made with the consent of all parties.

65. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by the Second Part of this Act (except additions so made as hereinbefore directed, for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration, by the written attestation of some Superintendent of Mercantile Marine, Justice, or officer of Customs

66. Every

*Marine Board and Navigation Act.—1881.***PART II.**

66. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes, or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement, shall, for each such offence, be deemed guilty of a misdemeanor.

Penalty for falsifying agreements.

67. Any seaman may bring forward evidence to prove the contents of any agreement or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Seaman not to be bound to produce agreement.

68. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement (omitting the signatures) to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding Five Pounds.

Copy of agreement to be made accessible to crew.

69. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Seamen discharged before voyage to have compensation.

70. Where a proceeding is instituted in or before any Court in relation to any dispute between an owner or master of a ship and a seaman or apprentice to the sea service, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the Court, if, having regard to all the circumstances of the case, they think it just so to do, may rescind any contract between the owner or master and the seamen or apprentice, or any contract of apprenticeship, upon such terms as the Court may think just, and this power shall be in addition to any other jurisdiction which the Court can exercise, independently of this section.

Power of Court to rescind contract between owner or master and seaman or apprentice.

For the purposes of this section the term "Court" includes any Special Magistrate or Justice having jurisdiction in the matter to which the proceeding relates.

Allotment of Wages.

71. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made.

Regulations as to allotment-notes.

72. (1.) Every

Marine Board and Navigation Act.—1881.

PART II.

Allotment notes in
favor of certain
persons.

72. (I.) Every agreement with a seaman, which is required by this Act to be made in the form sanctioned by the Board, shall, if the seaman so require, stipulate for the allotment of any part not exceeding one-half of the wages of the seaman in favor of the wife, or the father, or mother, or the grandfather, or grandmother, or any child, or grandchild, or any brother, or sister of any such seaman:

(II.) An allotment under the preceding subsection (I.) may also be made in favor of the Savings Bank of South Australia, and in that case shall be in favor of such persons and carried into effect in such manner as may be for the time being directed by regulations of the Board:

(III.) The sum received by the said Savings Bank in pursuance of such allotment shall be paid out only on an application made through a Superintendent of Mercantile Marine, or the said Board, by the seaman himself, or in case of death by some person to whom the same might be paid under section 98 of this Act:

(IV.) A payment under an allotment-note shall begin at the expiration of one month, or, if the allotment is in favor of the said Savings Bank, of three months' from the date of the agreement, or at such later date as may be fixed by the agreement; and shall be paid only in respect of wages earned before the date of payment:

Allotment notes may
be sued on with
certain restrictions.

(V.) The said Savings Bank or any person in whose favor an allotment has been made under this section may, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject, as to the wife, to the provision hereinafter contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorised the drawing of the note, in the same manner in which seamen are by this Act enabled to sue for and recover wages not exceeding Fifty Pounds; and in any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorised agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court in its absolute discretion, considers sufficient to show satisfactorily

Marine Board and Navigation Act.—1881.

torily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid:

PART II.

- (vi.) The wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favor.

Advance Notes.

73. Any document authorising, or promising, or purporting to authorise, or promise, the future payment of money on account of a seaman's wages, conditionally on his going to sea from any port within the province, and made before those wages have been actually earned, shall be void. No moneys paid in satisfaction or in respect of any such document, shall be deducted from a seaman's wages, and no person shall have any right of action, suit, or set-off against the seaman or his assignee in respect of any moneys so paid, or purporting to have been so paid: Provided that—

Advance notes illegal.

1. Nothing in this section shall invalidate or affect any allotment-note duly made under this Act.

Discharge and Payment of Wages.

74. In the case of all foreign-going ships and intercolonial ships all seamen shall be discharged and receive their wages in the presence of the said Board, or of a Superintendent of Mercantile Marine duly appointed under this Act, except in cases where some competent Court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto or, except as aforesaid, pays his wages within the province in any other manner, shall incur a penalty not exceeding Ten Pounds; and, in the case of coast-trade ships, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Discharge from foreign-going ships and intercolonial ships to be made before Board or Superintendent of Mercantile Marine.

And the owner or master of the ship shall pay to each seaman on account, at the time when he lawfully leaves the ship, at the end of his engagement, Two Pounds, or one-fourth of the balance due to him, whichever is least, and shall pay him the remainder of his wages within two clear days (exclusive of any Sunday or public holiday), after he so leaves the ship.

- 75. (1.)** Every master shall, subject to subsection II. of this section, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a Superintendent of Mercantile Marine, to such Superintendent of Mercantile Marine, a full and true account, in proper form, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall, for each offence, incur a penalty not exceeding

Master to deliver account of wages.

*Marine Board and Navigation Act.—1881.***PART II.**

exceeding Five Pounds ; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered ; and the master shall, during the voyage, enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

- (II.) The master of the ship may deliver the account of wages mentioned in subsection 1. of this section to the seaman himself, at or before the time when he leaves the ship, instead of delivering it to a Superintendent of Mercantile Marine :
- (III.) If the seaman consents, the final settlement of his wages may be left to the Superintendent of Mercantile Marine, under regulations to be made by the Board, and the receipt of the Superintendent shall in that case operate as a release by the seaman under section 79 of this Act :
- (IV.) In the event of the seaman's wages, or any part thereof, not being paid or settled as in this section mentioned, then, unless the delay is due to the act or default of the seaman, or to any reasonable dispute as to liability or to any other cause, not being the act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof :
- (V.) Where a question as to wages is raised before the Superintendent of Mercantile Marine, between the master or owner of a ship and a seaman or apprentice, if the amount in question does not exceed Five Pounds the Superintendent may adjudicate, and the decision of the Superintendent in the matter shall be final ; but if the Superintendent is of the opinion that the question is one which ought to be decided by a court of law, he may refuse to decide it.

On discharge, masters to give seamen certificate of discharge, and return certificates of competency or service to mates and engineers.

76. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a proper form, specifying the period of his service and the time and place of his discharge ; and if any master fails to sign and give to any such seaman such certificate of discharge he shall for each such offence incur a penalty not exceeding Ten Pounds ; and the master shall also, upon the discharge of every certificated mate or engineer whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding Twenty Pounds.

Board or Superintendent of Mercantile

77. The Board or any Superintendent of Mercantile Marine, by permission

Marine Board and Navigation Act.—1881.

permission of the Board, shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to them or him; and every award so made by them or him shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any Court of Justice, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

PART II.

Marine may decide questions which parties refer to them or him.

78. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before the Board or any Superintendent of Mercantile Marine, by permission of the Board, under the provisions of this Act, the Board or such Superintendent of Mercantile Marine may call upon the owner, or his agent, or upon the master, or any mate, engineer, or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before them or him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, engineer, or other member of the crew who, when called upon by the Board or Superintendent of Mercantile Marine, does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding Five Pounds.

Masters and others to produce ship's papers to Board or Superintendent of Mercantile Marine and give evidence.

79. The following rules shall be observed with respect to the settlement of wages, that is to say—

Settlement of wages.

- i. Upon the completion before a Superintendent of Mercantile Marine of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the Superintendent of Mercantile Marine, sign, in a proper form, a mutual release of all claims in respect of the past voyage or engagement, and the Superintendent of Mercantile Marine shall also sign, attest, and retain it.

Release to be signed before and attested by the Superintendent of Mercantile Marine.

- ii. Such release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement:

To be discharge.

- iii. A copy of such release, certified under the hand of such Superintendent of Mercantile Marine to be a true copy, shall be given by him to any party thereto requiring the same: and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy:

And to be evidence.

iv. In

*Marine Board and Navigation Act.—1881.***PART II.**

No other receipt to be
a discharge.

Voucher to be given
to master and to be
evidence.

Master to make
reports of character.

iv. In cases in which discharge and settlement before a Superintendent of Mercantile Marine are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim :

v. Upon any payment being made by a master before a Superintendent of Mercantile Marine, the Superintendent of Mercantile Marine shall, if required, sign and give to such master a statement of the whole amount so paid ; and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

80. Upon every discharge effected before a Superintendent of Mercantile Marine, the master shall make and sign, in a proper form a report of the conduct, character, and qualifications of the persons discharged, or may state, in a column to be left for that purpose in the said form, that he declines to give any opinion upon such particulars, or upon any of them ; and the Superintendent of Mercantile Marine shall, if desired so to do by any seaman, give to him, or endorse on his certificate of discharge, a copy of so much of such report as concerns him ; and every person who makes, assists in making, or procures to be made, any false certificate or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or report, or who fraudulently makes use of any certificate or report, or of any copy of any certificate or report which is forged or altered, or does not belong to him, shall, for each such offence, be deemed guilty of a misdemeanor.

Legal Rights to Wages

Right to wages and
provisions, when to
begin.

81. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to give up
certain rights.

82. No seaman shall by any agreement, except as by this Act provided, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled ; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative ; but nothing in this section shall apply to the case of any stipulation made by the seamen belonging to any ship which, according to the terms of the agreement, is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship or ships.

83. The

And stipulation con-
cerning salvage.

*Marine Board and Navigation Act.—1881.***PART II.**

83. The right to wages shall not be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores, shall bar his claim.

Wages not to be dependent on the earning of freight.

84. If any seaman or apprentice to whom wages are due under the last preceding enactment dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

In case of death such wages to be paid as after mentioned.

85. In cases where the service of a seaman terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate, granted as hereinafter mentioned, of his unfitness or inability to proceed on the voyage, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid but not for any further time.

Wages on termination of service by wreck or illness.

86. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

87. The master or owner of every ship shall pay to every seaman his wages within the respective periods following, that is to say, in the case of a coast-trade ship, within two days after the termination of the agreement, or at the time when such seaman is discharged, whichever first happens; and, in the case of all other ships (except ships employed in whale fishery or on other voyages for which seamen, by the terms of their agreement, are wholly compensated by shares in the profits of the adventure), within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and in all cases the seaman shall at the time of his discharge, be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid, without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable as wages.

Period within which wages are to be paid.

Mode of Recovering Wages.

88. Any seaman or apprentice, or any person duly authorised on his behalf, may sue in a summary manner before a Special Magistrate

Seamen may sue for wages in a summary manner.

*Marine Board and Navigation Act.—1881.***PART II.**

Magistrate or two Justices of the Peace acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding Fifty Pounds over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable; and every order made by such Magistrate or Justices in the matter shall be final.

Restrictions on suits
for wages in superior
Courts.

89. No suit or proceeding for the recovery of wages under the sum of Fifty Pounds shall be instituted by or on behalf of any seaman or apprentice in the Supreme Court, or any Court of Admiralty or Vice-Admiralty, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest, or is sold by the authority of any such Court as aforesaid, or unless any Justices, acting under the authority of this Act, refer the case to be adjudged by such Court, or unless neither the owner nor master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

Admiralty jurisdiction,
and suing in Superior Court.

90. The Supreme Court, or any Court of Admiralty or Vice-Admiralty, shall have jurisdiction, and all powers and authorities relating thereto, to try and determine, subject and according to the provisions of this Act, the following causes—

As to claim exceeding
£50 by seaman for
wages.

I. As to any claim exceeding Fifty Pounds by a seaman of any ship for wages earned by him on board the ship, whether the same be due under a special contract or otherwise:

As to claim exceeding
£50 by master for
wages and disburse-
ments.

II. As to any claim exceeding Fifty Pounds by the master of any ship for wages earned by him on board the ship, and for disbursements made by him on account of the ship.

Proviso as to costs.

Provided always that if in any such cause the plaintiff do not recover Fifty Pounds he shall not be entitled to any costs, charges, or expenses incurred by him therein, unless the Judge shall certify that the cause was a fit one to be tried in the said Court.

No seaman to sue for
wages abroad, except
in cases of discharge
or of danger to life.

91. No seaman who is engaged for a voyage or engagement which is to terminate in the province shall be entitled to sue in any Court abroad for wages, unless he is discharged with such sanction as herein required and with the written consent of the master, or proves such ill-usage on the part of the master or by his authority as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board; but if any seaman on his return to the province proves that the master or owner has been guilty of any conduct or default which but for this enactment would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover, in addition to his wages, such compensation, not exceeding Twenty Pounds, as the Court hearing the case thinks reasonable.

92. Every

Marine Board and Navigation Act.—1881.

92. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act, or by any law or custom, any seaman, not being a master, has for the recovery of his wages; and if in any proceeding in the Supreme Court, or any Court of Admiralty or Vice-Admiralty, touching the claim of a master to wages, any right of set-off, or counter-claim, is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

PART II.

Master to have same remedies for wages as seamen.

Wages and Effects of Deceased Seamen.

93. Whenever any seaman or apprentice belonging to or sent home in any ship, whether a foreign-going ship, or intercolonial ship, employed on a voyage which is to terminate in the province, or a coast-trade ship, dies or is lost during a voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of the said clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log-book containing the following particulars, that is to say—

Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same, and wages due, in the official log.

- I. A statement of the amount of the money and a description of the effects so left by the deceased :
- II. In case of a sale, a description of each article sold, and the sum received for each :
- III. A statement of the sum due to the deceased as wages, and the total amount of the deductions (if any) to be made therefrom :

And shall cause such entry to be attested by a mate and by one of the crew.

94. In the cases provided for by the last preceding section, the following rules shall be observed, that is to say—

Such effects and wages to be paid to Superintendent of Mercantile Marine, with full accounts.

- I. The master shall within forty-eight hours after his arrival deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the Superintendent of Mercantile Marine at the port of destination in the province :
- II The master shall in all cases in which any seaman or apprentice dies during the progress of a voyage or engagement, give to such Superintendent of Mercantile Marine as aforesaid an account, in proper form, of the effects, money, and wages so to be delivered and paid ; and no deductions claimed in such account shall be allowed unless verified, if there is any official log-book, by such entry therein as hereinbefore required, and also by such other vouchers (if any)

as

*Marine Board and Navigation Act.—1881.***PART II.**

as may be reasonably required by the Board or by the Superintendent of Mercantile Marine to whom the account is rendered:

111. Upon due compliance with the provisions of this section, the Superintendent of Mercantile Marine shall grant to the master a certificate to that effect, and no officer of Customs shall clear inwards any foreign-going ship or intercolonial ship without the production of such certificate.

Recovery of wages,
&c., of seamen lost
with their ship.

95. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows, that is to say—

- i. The Board may, in their own name, sue for and recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable:
- ii. In any proceedings for the recovery of such wages, if it is shown to the satisfaction of the Court, Special Magistrate, or Justice, that the ship has, twelve months or upwards before the institution of the proceeding, left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost, with all hands on board, either immediately after the time she was last heard of or at such later time as the Court, Special Magistrate, or Justice hearing the case may think probable:
111. The production out of the custody of a Superintendent of Mercantile Marine of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from the province, or of a certificate purporting to be a certificate from a Superintendent of Mercantile Marine or from a consular or other public officer at any port abroad, stating that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss:
- iv. The Board shall deal with such wages in the manner in which they deal with the wages of other deceased seamen and apprentices under this Act.

Penalties for not
remitting, or
accounting for
such moneys and
effects.

96. If any master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages, or effects, of any seaman or apprentice dying during a voyage, or to give such account in respect thereof as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the Board, and shall pay and deliver

*Marine Board and Navigation Act.—1881.*PART II.

deliver the same accordingly; and such master shall, in addition, for every such offence incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding Fifty Pounds; and if such money, wages, or effects are not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and, if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty which is hereinbefore mentioned as incurred by the master for the like offence; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same Courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

97. Whenever any seaman or apprentice dies in the province, and is at the time of his death entitled to claim from the master or owner of any ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the Superintendent of Mercantile Marine at the port where the seaman or apprentice was discharged or was to have been discharged, or to the Board, or as they direct.

Wages and effects of seamen dying at home to be paid in certain cases to Marine Board.

98. If the money and effects of any deceased seaman or apprentice, paid, delivered, or remitted to the Board or their officers, including the moneys received for any part of the said effects which have been sold either before delivery to the Board, or by their direction, do not exceed in value the sum of Fifty Pounds, then, subject to the provisions hereinafter contained, and to all such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the said Board think proper to allow, the said Board may, if they think fit so to do, pay and deliver the said money and effects either to any claimants who can prove themselves, to the satisfaction of the said Board, either to be his widow or children, or to be entitled to the effects of the deceased under his will (if any), or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, or to be entitled to procure probate or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or may, if they think fit so to do, require probate or letters of administration or confirmation to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration; and if such money and effects exceed in value the sum of Fifty Pounds, then, subject to the provisions hereinafter contained, and to deduction for expenses, the Board shall

If less than £50, wages and property of deceased seamen may be paid over without probate or administration to the persons entitled.

*Marine Board and Navigation Act.—1881.***PART II.**

pay and deliver the same to the legal personal representatives of the deceased, and shall, within a reasonable time of the distribution of the money and effects of any such deceased seaman, furnish the Board of Trade of the United Kingdom with a report and account of the money and effects so distributed.

Mode of payment
under wills made by
seamen.

99. In cases where the deceased seaman or apprentice has left a will, the Board shall have the following powers, that is to say—

- i. They may, in their discretion, refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on board ship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of the master, or first or only mate, or engineer of the ship, and is attested by such master, mate, or engineer :
- ii. They may, in their discretion, refuse to pay or deliver any such wages or effects as aforesaid to any person, not being related to the testator by blood or marriage, who claims to be entitled thereto under a will made elsewhere than on board ship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of two witnesses, one of whom is some Superintendent of Mercantile Marine appointed under this Act, or some minister or officiating minister or curate of the place in which the same is made, or, in a place where there are no such persons, some Justice of the Peace, or some British Consular Officer, or some officer of Customs, and is attested by such witnesses.

Whenever any claim made under a will is rejected by the Board on account of the said will not being made and attested as hereinbefore required, the wages and effects of the deceased shall be dealt with as if no will had been made.

Provision for pay-
ment of just claims
by creditors, and for
preventing fraudu-
lent claims.

100. The following rules shall be observed with respect to creditors of deceased seamen and apprentices, that is to say—

- i. No such creditor shall be entitled to claim from the Board the wages or effects of any such seaman or apprentice or any part thereof by virtue of letters of administration taken out by him :
- ii. No such creditor shall be entitled, by any means whatever, to payment of his debt out of such wages and effects if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death :
- iii. Subject as aforesaid, the steps to be taken for procuring payment of such debt shall be as follows, that is to say : Every person making a demand as creditor shall deliver to the Board an account in writing, in such form as the Board require,

*Marine Board and Navigation Act.—1881.***PART II.**

require, subscribed with such creditor's name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a Justice :

- iv. If before such demand is made any claim to the wages and effects of the deceased made by any person interested therein as his widow or child, or under a will, or under the Statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, has been allowed, the Board shall give notice to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he or she had received the said wages and effects as the legal personal representative of the deceased :
- v. If no claim by any such person has been allowed, the Board shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto ; and if by such means the creditor duly satisfies the Board of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the assets in the hands of the Board will extend for that purpose, and such payment shall discharge the Board from all further liability in respect of the money so paid ; but if the Board are not so satisfied, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed :
- vi. In any case whatever the Board may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand ; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as hereinbefore required by any person interested therein, as a widow or child, or under a will, or under the Statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, the Board may pay and deliver the same to such person ; and thereupon the creditor shall have the same rights and remedies against such person as if he or she had received the same as the legal personal representative of the deceased.

101. In cases of wages or effects of deceased seamen or apprentices received by the Board to which no claim is substantiated within six years after the receipt thereof by such Board, it shall be in the absolute discretion of such Board, if any subsequent claim is made, either to allow or refuse the same ; and, subject to the provisions hereinafter contained, the Board shall from time to time pay any moneys arising from the unclaimed wages and effects of deceased seamen

Mode of dealing
with unclaimed
wages of deceased
seamen.

PART II.

seamen which, in the opinion of such Board, it is not necessary to retain for the purpose of satisfying claims, to the Treasurer, and such moneys shall be carried to and form part of the revenue of the province.

Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.

102. Every person who, for the purpose of obtaining, either for himself or for another, any money or effects of any deceased seaman or apprentice, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document purporting to show or assist in showing a right to such wages or effects, and every person who, for the purpose aforesaid, makes use of any such forged or altered document as aforesaid, or who, for the purpose aforesaid, gives or makes or procures to be given or made, or assists in giving or making or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with penal servitude for a term not exceeding four years, or with imprisonment with or without hard labor for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment, with or without hard labor, for any period not exceeding six months.

Leaving Seamen Abroad.

Forcing seamen on shore a misdemeanor.

103. If the master or any other person belonging to any ship wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind, in any place, on shore or at sea, in or out of Her Majesty's dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged, or the return of the ship to the province, he shall for each such offence be deemed guilty of a misdemeanor.

No seaman to be discharged or left abroad without certificate of some functionary.

104. If the master of any ship does any of the following things, that is to say—

- I. Discharges any seaman or apprentice in any place situate in the United Kingdom, or in any British Possession other than South Australia, without previously obtaining the sanction in writing, indorsed on the agreement, of some Superintendent of Mercantile Marine or other officer duly appointed in that behalf, or (in the absence of any such functionary) of the Collector of Customs resident at or near the place where the discharge takes place:
- II. Discharges any seaman or apprentice at any place out of Her Majesty's dominions without previously obtaining the sanction, so indorsed as aforesaid, of the British Consular Officer there, or (in his absence) of two respectable merchants resident there:
- III. Leaves behind any seaman or apprentice at any place situate in the United Kingdom, or in any British Possession other than

Marine Board and Navigation Act.—1881.

PART II.

than South Australia, on any ground whatever, without previously obtaining a certificate in writing, so indorsed as aforesaid, from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance:

- iv. Leaves behind any seaman or apprentice at any place out of Her Majesty's dominions, on shore or at sea, on any ground whatever, without previously obtaining the certificate, indorsed in manner and to the effect last aforesaid, of the British Consular Officer there, or (in his absence) of two respectable merchants, if there are any such at or near the place where the ship then is—

he shall for each such default be deemed guilty of a misdemeanor.

105. Upon the trial of any information, indictment, or other proceeding against any person for discharging or leaving behind any seaman or apprentice contrary to the provisions of this Act, it shall lie upon such person either to produce the sanction or certificate hereby required or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

Proof of such certificate to be upon the master.

106. Every master of any ship who leaves any seaman or apprentice on shore at any place out of South Australia under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or, if there be but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice, such account, when delivered to a Consular Officer, to be in duplicate, and shall pay the same either in money or by a bill drawn upon the owner, and by money whenever it is practicable so to do, and not by bill; and in cases where payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof, and it shall not be necessary, in any proceeding against the owner upon such bill, to prove that the master had authority to draw the same; and any bill purporting to be drawn in pursuance of this section, and to be indorsed as herein required, if produced out of the custody of the Board, or of any Superintendent of Mercantile Marine, shall be received in evidence; and any indorsement on any such bill purporting to be made in pursuance of this section and to be signed by one of the functionaries herein mentioned shall also be received in evidence, and shall be deemed to be *prima facie* evidence of the facts stated in such indorsement; and every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and pay the amount thereof in money or by bill,

Wages to be paid when seamen are left behind on ground of inability.

*Marine Board and Navigation Act.—1881.***PART II.**

bill, as hereinbefore required, shall for every such offence or default be liable, in addition to the payment of the wages, to a penalty not exceeding Ten Pounds; and every such master who delivers a false account of such wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding Twenty Pounds.

Such payment, if made in British Possession, to be made to seaman himself; if made out of Her Majesty's dominions, to be made to Consular Officer, who shall give a receipt.

107. Every such payment as last aforesaid, whether by bill or in money, shall, if made in any British Possession, be made to the seaman or apprentice himself, and, if made out of Her Majesty's dominions, to the Consular Officer, from whom the master shall obtain an indorsement on one of the duplicates thereof of a receipt for the amount paid or bill delivered; and the master shall, within forty-eight hours after his return to his port of destination in the province, deliver the same to the Superintendent of Mercantile Marine there.

Distressed seamen found abroad may be relieved and sent home at expense of province.

108. The Board may pay any reasonable expenses incurred by the Board of Trade of the United Kingdom, or by any officers of Her Majesty in any British Possession other than South Australia, or in any foreign country, on account of subsistence or transport back to the province of any seamen or apprentices belonging to the province, and who have been found in distress, either on account of shipwreck or otherwise, in any place out of the province, out of any moneys applicable to the relief of distressed seamen, and granted by the Parliament on the production of the bills of disbursements, with the proper vouchers, and such other evidence as the Board may require.

Power to sue for the amount advanced for the relief of seamen left abroad.

109. If any seaman or apprentice belonging to any ship is discharged or left behind at any place out of the province, without full compliance on the part of the master with all the provisions in that behalf in this Act contained, and becomes distressed, and is relieved under the provisions of this Act or of any other Act in force for the time being for the relief of distressed seamen, the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and burial in case he should die abroad before reaching home, shall be a charge upon the ship to which he so belonged as aforesaid; and the Board may (besides suing for any penalties which may have been incurred), sue for and recover the said wages and expenses, with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, and such sums shall be recoverable in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceedings for that purpose proof of payment by the Board of the charges incurred on account of any such seaman, apprentice, or other person, shall be *prima facie* evidence that he was lawfully relieved, conveyed home, or buried (as the case may be) at Her Majesty's expense.

Provisions

*Marine Board and Navigation Act.—1881.**Provisions, Health, and Accommodation.***PART II.**

110. Any three or more of the crew of any ship may complain to any Superintendent of Mercantile Marine that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which had been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding Twenty Pounds; and upon every such examination as aforesaid the officer making or directing the same shall enter a statement of the result of the examination in the official log-book, and shall send a report thereof to the Marine Board; and such report, if produced out of their custody, or of any officer acting under their direction, shall be received in evidence in any legal proceeding.

Survey of provisions
and water on com-
plaint made.

111. If the officer to whom any such complaint as last aforesaid is made certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Forfeiture for
frivolous complaint.

112. In the following cases, that is to say—

Allowance for short
or bad provisions.

- I. If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore):

- II. If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use—

The seaman shall receive, by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages, that is to say—

- I. If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding Fourpence a day:
- II. If his allowance is reduced by more than one-third of such quantity, Eightpence a day:
- III. In

*Marine Board and Navigation Act.—1881.***PART II.**

III. In respect of such bad quality as aforesaid, a sum not exceeding One Shilling a day.

But if it is shown to the satisfaction of the Court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take such circumstances into consideration, and shall modify or refuse compensation, as the justice of the case may require.

Rules for medicines, medical stores, and anti-scorbutics.

113. The Board may make, and when made revoke, alter, or add to, rules to be observed with respect to medicines, medical stores, and anti-scorbutics to be provided for use on board of ships. Until such rules are made, the rules with respect to medicines, medical stores, and anti-scorbutics in force for the time being under "The Merchant Shipping Act, 1854," and Acts amending the same, shall, so far as the same are applicable, be deemed to be in force in the province.

Masters to keep weights and measures on board.

114. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness, whenever any dispute arises about such quantities; and in default shall for every offence incur a penalty not exceeding Ten Pounds.

Penalty for selling bad drugs for ships.

115. Any person who manufactures, sells, or keeps or offers for sale, any such medicines, medical stores, or anti-scorbutics as aforesaid which are of bad quality, shall for each such offence incur a penalty not exceeding Twenty Pounds.

Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed.

116. The following rules shall be observed with respect to expenses attendant on illness and death, that is to say—

i. If the master or any seaman or apprentice receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured, or dies, or is brought back to some port in the province, if shipped in the province, or, if shipped in some British Possession, to some port in such Possession, and of his conveyance to such port, and the expense (if any) of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman, or apprentice :

ii. If the master or any seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal, and of providing the necessary

*Marine Board and Navigation Act.—1881.***PART II.**

sary advice, with attendance and medicines, and of his subsistence whilst away from the ship, shall be defrayed in like manner:

- III. The expense of all medicines and surgical or medical advice and attendance given to any master, seaman, or apprentice whilst on board his ship shall be defrayed in like manner:
- IV. In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.

117. Whenever it is shown that any seaman or apprentice who is ill has, through the neglect of the master or owner, not been provided with proper food and water according to his agreement, or with such accommodation, medicines, medical stores, or anti-scorbutics as are required by "The Merchant Shipping Act, 1854," or any Act amending the same, or by this Act, then, unless it can be shown that the illness has been produced by other causes, the owner or master shall be liable to pay all expenses properly and necessarily incurred by reason of such illness (not exceeding in the whole three months' wages) either by such seaman himself, or by the Treasurer, or by the Board, or any local authority on his behalf; and such expenses may be recovered in the same way as if they were wages duly earned: Provided that this enactment shall not operate so as to affect any further liability of any such owner or master for such neglect, or any remedy which any seaman already possesses.

Seamen's expenses in case of illness through neglect of owner or master to be paid by them.

118. Where a seaman is, by reason of illness, incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is, by reason of such illness, incapable of performing his duty.

Forfeiture of wages of seaman when illness caused by his own default.

119. The Board may call to their assistance any legally-qualified medical practitioner to inspect the medicines, medical stores, lime or lemon-juice, or other articles sugar and vinegar, required to be kept on board any ship, and such medical practitioners shall, for the purposes of such inspection, have the same power as inspectors appointed by the Board under this Act; but every such practitioner, if required by timely notice in writing from the master, owner, or consignee, shall make his inspection three days at least before the ship proceeds to sea, and if the result of the inspection is satisfactory, shall not again make inspection before the commencement of the voyage, unless he has reason to suspect that some of the articles inspected have been subsequently removed, injured, or destroyed; and whenever any such medical practitioner is of opinion that in any ship hereby required to carry such articles as aforesaid, the same or any of them are deficient in quantity or quality, or are placed in improper

Board may appoint medical inspectors.

*Marine Board and Navigation Act.—1881.***PART II.**

improper vessels, he shall signify the same in writing to the chief officer of Customs of the port where such ship is lying, and also to the master, owner, or consignee thereof, and thereupon the master of such ship, before proceeding to sea, shall produce to such chief officer of Customs a certificate under the hand of such medical practitioner, to the effect that such deficiency has been supplied or remedied, or that such improper vessels have been replaced by proper vessels as the case may require; and such chief officer of Customs shall not grant a clearance for such ship without the production of such certificate, and, if such ship attempts to go to sea without a clearance, may detain her until such certificate is produced, and if such ship proceeds to sea without the production of such certificate, the owner, master, or consignee thereof shall incur a penalty not exceeding Twenty Pounds.

Medical inspection of
seamen.

120. The Board shall, on application by the owner or master of any ship, appoint a legally-qualified medical practitioner to examine any seaman applying for employment on such ship, and shall give to the Superintendent of Mercantile Marine a report under his hand, stating whether such seaman is in a fit state for duty at sea; and a copy of such report shall be given to the master or owner of the ship.

The master or owner applying for such inspection shall pay to the Superintendent such fees as the Board may direct.

Expenses, if paid by
Consul, to be re-
coverable from
owner.

121. If any such expenses in respect of the illness, injury, or hurt of any seaman or apprentice as are to be borne by the owner are paid by any Consular Officer or other person on behalf of Her Majesty, or if any other expenses in respect of the illness, injury, or hurt of any seaman or apprentice whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf are so paid, such expenses shall be repaid to such officer or other person by the master of the ship, and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master, or from the owner of the ship for the time being, as a debt due to Her Majesty, and shall be recoverable either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof the production of a certificate of the facts, signed by such officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by such Consular Officer or other person as aforesaid.

Place appropriated to
seamen to have a
certain space for each
man, and to be
properly constructed
and kept clear.

122. The following rules shall be observed with respect to accommodation on board ships, that is to say—

- i. Every place in any ship occupied by seamen or apprentices, and appropriated to their use, shall have, for every such seaman or apprentice, a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet, measured on the deck or floor of such place :

ii. Every

*Marine Board and Navigation Act.—1881.*PART II.

- II. Every such place shall be such as to make the space aforesaid available for the proper accommodation of the men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and, as far as practicable, properly shut off and protected from effluvium which may be caused by cargo or bilge-water :
- III. No such place as aforesaid shall be deemed to be such as to authorise a deduction from registered tonnage under the provisions hereinafter contained, unless there is or are in the ship one or more properly constructed privy or privies for the use of the crew ; such privy or privies to be of such number and of such construction as may be approved by the surveyor hereinafter mentioned :
- IV. Every such place shall, whenever the ship is registered, or re-registered, be inspected by one of the inspectors appointed by the Board, who shall, if satisfied that the same is in all respects such as is required by this Act, give to the Collector of Customs a certificate to that effect, and thereupon such space shall be deducted from the registered tonnage :
- V. No such deduction from tonnage as aforesaid shall be authorised unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every such place, the number of men which it is constructed to accommodate, with the words "Certified to accommodate seamen" :
- VI. Every such place shall be kept free from stores or goods of any kind not being the personal property of the crew in use during the voyage :
- VII. Upon any complaint concerning any such place as aforesaid, one of the inspectors appointed by the Board may inspect such place, and if he finds that any of the provisions of this Act with respect to the same are not complied with, he shall report the same to the Collector of Customs at the port where the ship is registered, and thereupon the registered tonnage shall be altered, and the deduction aforesaid in respect to space disallowed, unless and until it shall be certified by such surveyor, or by some other surveyor appointed by the Board, that the provisions of the Act in respect of such place are fully complied with :
- VIII. If any such place in any ship is not kept free from goods and stores as aforesaid, the master shall be deemed to be in fault, and shall, for every such failure to comply with the provisions of this section, forfeit and pay to each seaman lodged in such place the sum of One Shilling a day for each day, after complaint made to him by any two or more of such seamen, during which any goods or stores, not being the personal property of the crew, are stored or kept therein :

IX. If

*Marine Board and Navigation Act.—1881.*PART II.

- IX. If in any other respect the provisions of this section are not observed with respect to any such place in any ship, the owner shall be deemed to be in fault, and shall, for every failure to comply with the provisions of this section, incur a penalty not exceeding Twenty Pounds.

Power of making Complaint.

Seamen to be allowed to go ashore to make complaint to a Justice.

123. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Justice against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Justice, so soon as the service of the ship will permit, and, if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding Ten Pounds.

Protection of Seamen from Imposition.

Sale of and charge upon wages to be invalid.

124. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any Court; and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

No debt exceeding 5s. recoverable till end of service.

125. No debt exceeding in amount Five Shillings, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

Penalty for over-charges by lodging-house keepers.

126. If any person demands or receives from any seaman or apprentice to the sea service payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding Ten Pounds.

Penalty for detaining seamen's effects.

127. If any person receives or takes into his possession or under his control any moneys, documents, or effects of any seaman or apprentice to the sea service, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging, or otherwise, or absconds therewith, he shall incur a penalty not exceeding Ten Pounds; and any Special Magistrate or two Justices may, besides inflicting such penalty, by summary order direct the amount or value of such moneys, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

128. Where

*Marine Board and Navigation Act.—1881.***PART II.**

Persons not to go on board before the final arrival of ship without permission.

128. Where a ship is about to arrive, is arriving, or has arrived at the end of her voyage every person, not being in Her Majesty's service, or not being duly authorised by law for the purpose, who goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged, whichever last happens, or being on board the ship remains there after being warned to leave by the master or by a police officer, or by any officer of the Board or of the Customs, shall for every such offence be liable on summary conviction to a fine not exceeding Twenty Pounds, or in the discretion of the Court to imprisonment for any term not exceeding six calendar months; and the master or any officer of the Board or police officer may take any such person into custody, and deliver him up forthwith to any constable or peace officer, to be taken before a Justice or Justices, and to be dealt with according to the provisions of this Act.

Penalty for solicitations by lodging-house keepers.

129. If, within twenty-four hours after the arrival of any ship at any port in the province, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding Five Pounds.

Rating of Seamen.

Rating of seaman.

130. A seaman shall not be entitled to the rating of A.B., that is to say, of an able-bodied seaman, unless he has served at sea for four years before the mast; but the employment of fishermen in registered decked fishing vessels shall only count as sea service up to the period of three years of such employment, and the rating of A.B. shall only be granted after at least one year's sea service in a trading vessel, in addition to three or more years' sea service on board of registered decked fishing vessels. Such service may be proved by certificates of discharge or certificates of service, in due form, in which shall be specified whether the service was rendered in whole or in part in steamship or sailing ship, or by other satisfactory proof. Nothing in this section shall affect a seaman who has been rated and has served as A.B. before the coming into operation of this Act.

Discipline.

Misconduct endangering ship, or life, or limb, a misdemeanor.

131. Any master of or any seaman or apprentice belonging to any ship who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness—

- i. Does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship: or,

ii. Refuses

*Marine Board and Navigation Act.—1881.***PART II.**

11. Refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanor.

Obligation of ship-owner to crew with respect to use of reasonable efforts to secure seaworthiness.

132. In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same: Provided that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending thereof to sea is reasonable and justifiable.

Board may order inquiry.

133. If the Board has reason to believe that any master, mate, or engineer is, from incompetency or misconduct, unfit to discharge his duties, or if at any time complaint is made to the Board with reference to any master, mate, or engineer holding a certificate of competency or of service issued by the Board of Trade of the United Kingdom or by the Board, to the effect that such certificated officer is, by reason of incompetency, drunkenness, tyranny, or misconduct unfit to discharge his duties, the Board may order an inquiry to be held before the Court of Marine Inquiry into the conduct of such officer.

Court of Marine Inquiry.

Constitution of Court of Marine Inquiry.

134. For the purposes of this Act, there is hereby constituted a court or tribunal, under the name of the "Court of Marine Inquiry." Such court shall consist of the Judges of the Supreme Court of the province, all Special Magistrates of the province, and the nautical and engineering assessors appointed by the Governor as hereinafter directed. The Governor may appoint any number of persons who in his opinion are possessed of nautical or engineering skill to be nautical or engineering assessors for the purposes of this Act, such assessors to be appointed from a list of persons approved of as eligible, and furnished from time to time by the Marine Board.

Court of Marine Inquiry to be a corporation.

135. The Court of Marine Inquiry shall be a Corporation with perpetual succession and a common seal.

Duties of Court of Marine Inquiry.

136. The Court of Marine Inquiry is hereby authorised:—

1. To make inquiry into charges of incompetency or misconduct on

*Marine Board and Navigation Act.—1881.***PART II.**

on the part of masters, certificated engineers, and mates of ships, holding certificates issued by the Board of Trade of the United Kingdom, and also as to shipwrecks and other casualties affecting ships, and for that purpose to exercise all powers given by the 242nd section of "The Merchant Shipping Act of 1854" and the 23rd section of the Act of Parliament of the United Kingdom of Great Britain and Ireland, known as the "Merchant Shipping Amendment Act, 1862" (which sections are for convenience set forth in the Schedule A hereto) to the court or tribunal mentioned in subsection 5 of the former:

- II. To hold any investigation which may be directed by the Board into the alleged incompetency or misconduct of any master, mate, or engineer holding a certificate, whether of competency or service, issued by the Board, and to cancel or suspend any such certificate held by a master, mate, or engineer, who, upon any such investigation, shall—
 - (a.) Be found guilty of any act of gross misconduct, drunkenness, or tyranny:
 - (b.) Be found to be incompetent:
 - (c.) Be found to have occasioned, by his wrongful act or default, the loss, abandonment of, or serious damage to, any ship, or loss of life:
 - (d.) Be found to have been convicted of any offence, for which, in the opinion of the said Court, his certificate should be cancelled or suspended.
- III. To hold any investigation into a shipping casualty under the fourth part of this Act.

137. For the purposes of subsection 1. of the last preceding section, a quorum of the Court of Marine Inquiry shall consist—

Quorum of Court of Marine Inquiry.

- (a.) In cases where it is sought to cancel or suspend a certificate of a master, mate, or engineer issued by the Board of Trade of the United Kingdom, on the grounds of misconduct, including drunkenness, tyranny, or misconduct or incompetency, not contributing to a shipping casualty, of one or more of the Judges of the Supreme Court:
- (b.) In all other cases where it is sought to cancel or suspend a certificate of a master, mate, or engineer, issued by the Board of Trade of the United Kingdom, of at least one Judge of the Supreme Court, and two nautical or engineering assessors, respectively, according as the inquiry is into the incompetency or misconduct of a master, or mate, or of an engineer, respectively.

For the purposes of subsection II. of the last preceding section, a quorum shall consist of a Judge of the Supreme Court and two nautical

*Marine Board and Navigation Act.—1881.***PART II**

nautical or engineering assessors, or a Special Magistrate and two nautical or engineering assessors, the assessors to be nautical or engineering, according as the inquiry is into the incompetency or misconduct of a master or mate, or of an engineer, respectively.

For the purposes of subsection 111. of the last preceding section a quorum shall consist of a Judge of the Supreme Court and two nautical or engineering assessors, or, of a Special Magistrate and two nautical or engineering assessors respectively: Provided that in all cases in which it would be competent for the said Court upon any such investigation to suspend or cancel any certificate issued by the Board of Trade of the United Kingdom a quorum shall consist of a Judge of the Supreme Court and two nautical or engineering assessors respectively.

President of Court
Marine Inquiry.

138. The Chief Justice, if he be present, or if he be not present, the Senior Judge of the Supreme Court present, or if no Judge of the Supreme Court be present, then the Special Magistrate of longest standing present, shall be the President of the Court of Marine Inquiry.

Judgment of the
Court of Marine
Inquiry.

139. At the close of every inquiry or investigation before the Court of Marine Inquiry, the judgment of the Court shall be delivered by the President in open Court, and such judgment shall (except where a Judge of the Supreme Court shall sit alone) be the judgment of the majority of the Court, and for the purpose of ascertaining such majority the President shall have a casting as well as a deliberative vote. Except where a Judge shall sit alone, one nautical or engineering assessor shall concur in the judgment of the Court. The President shall, in every case, forward to the Board the judgment of the Court, together with the evidence, and it shall be competent for any member of the Court, who may dissent from the judgment, to forward to the Board, in writing, his reason for so dissenting.

Powers of Court of
Marine Inquiry.

140. The Court of Marine Inquiry shall be a court of record, and for the purpose of any inquiry or investigation shall have all the powers given by this Act to an inspector or surveyor appointed by the Board, and, as far as relates to the summoning of parties and compelling the attendance of witnesses, shall have all the powers ordinarily exercised by the Supreme Court in any civil or criminal proceeding.

Clerk of Court
Marine Inquiry.

141. The Secretary of the Marine Board for the time being shall be the Clerk of the Court of Marine Inquiry, and shall have the custody of the common seal thereof: And all summonses, whether to witnesses or parties, notices, and documents, issued under the hand of the Clerk of the Court of Marine Inquiry and sealed with the seal thereof, shall be deemed to be issued by and under the authority of the Court of Marine Inquiry.

142. The

Marine Board and Navigation Act.—1881.

142. The Court of Marine Inquiry shall sit in such suitable place or places as may from time to time be determined by the Governor of this province.

PART II.
Place of sitting.

143. The Judges of the Supreme Court, or any two of them, may make rules for the conduct and procedure of the Court of Marine Inquiry, and for fixing the mode and rotation in which, and the persons by whom the members of the said Court shall be summoned, and imposing penalties on members of the said Court for non-attendance after being duly summoned, and from time to time alter or revoke the same. All such rules shall be under the hands of the Judges making the same, and the seal of the Supreme Court, and shall be published in the *Government Gazette*, and take effect from the date of such publication. Until such rules are made, the Supreme Court or any Judge thereof shall, at the request of the Board, give such directions as may seem fit for the conduct and procedure of and in any particular case.

Rules may be made.

144. Every master, mate, or engineer whose certificate is suspended or cancelled in pursuance of this Act, or of "The Merchant Shipping Act, 1854," or any amendment thereof, shall, upon demand of the Court of Marine Inquiry, deliver his certificate to the Court, who shall forward the same to the Board, or, if it is not demanded by the Court, shall, upon demand, deliver the same to the Board, or as they may direct; and every master, mate, and engineer who shall fail to comply with the provisions of this section shall, for each such offence, incur a penalty not exceeding Fifty Pounds: Provided that it shall be lawful for the Board at any subsequent time to grant any person whose certificate (being a certificate granted by the Board) has been cancelled, a new certificate of the same, or any lower grade.

Certificate to be delivered up.

Offences of Seamen.

145. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea service, commits any of the following offences, he shall be liable to be punished summarily as follows, that is to say—

Offences of seamen and apprentices and their punishments.

- i. For desertion he shall be liable to forfeit all, or any part, of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned; and also, if such desertion takes place abroad, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to the province, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him:
- ii. For neglecting, or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at

Desertion.

Neglecting or refusing to join or proceed to sea, absence within 24 hours before sailing, and absence without leave.

*Marine Board and Navigation Act.—1881.***PART II.**

- any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion, or not treated as such by the master, he shall be liable to forfeit out of his wages a sum not exceeding the amount of two days' pay, and, in addition, for every twenty-four hours' of absence, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute:
- Quitting without leave before ship is secured.** III. For quitting the ship without leave after her arrival at her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay:
- Act of disobedience.** IV. For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labor; and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay:
- Continued disobedience.** V. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor; and also, at the discretion of the Court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute:
- Assault on officers.** VI. For assaulting any master, mate, or engineer he shall be liable to imprisonment for any period not exceeding six months, with or without hard labor:
- Combining to disobey.** VII. For combining with any other, or others, of the crew, to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship, or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve months, with or without hard labor:
- Wilful damage and embezzlement.** VIII. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for any period not exceeding twelve months, with or without hard labor:
- Act of smuggling causing loss to owner.** IX. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability without prejudice to any further remedy.

146. Whenever

Marine Board and Navigation Act.—1881.

PART II.

Survey of ships
alleged by seamen to
be unseaworthy.

146. Whenever in any proceeding against any seaman or apprentice belonging to any ship for desertion, or for neglecting or refusing to join or to proceed to sea in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth, being not less than three, of the seamen belonging to such ship, or, if the number of such seamen exceed twenty, by not less than five such seamen, that such ship is, by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in such ship is insufficient, the Court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of such allegation, and shall for that purpose receive the evidence of the person or persons making the same, and shall have power to summon any other witnesses whose evidence they may think it desirable to hear. The Court shall thereupon, if satisfied that the allegation is groundless, proceed to adjudicate, but, if not so satisfied, shall cause such ship to be surveyed :

Provided that no seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for a survey under this section unless, previously to his quitting his ship, he has complained to the master of the circumstances so alleged in justification.

For the purposes of this section, the Court shall require any of the surveyors appointed by the Board, under this Act, or any person appointed for the purpose by the Board, or if such surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the Court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the Court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the Court may think fit to put. Such surveyor or other person shall survey the ship, and make his report in writing to the Court, including an answer to every question put to him by the Court. The Court shall cause such report to be communicated to the parties, and, unless it is proved to the satisfaction of the Court that the opinions expressed in such report are erroneous, the Court shall determine the questions before them in accordance with those opinions.

For the purposes of such survey, a surveyor shall have all the powers of an inspector appointed by the Board under this Act.

The costs (if any) of the survey shall be determined by the Court, according to a scale of fees to be fixed by the Board, and shall be paid by the master or owner of the ship.

If it is proved to the satisfaction of the Court that the ship is in a fit condition to proceed to sea, or, as the case may be, that the accommodation is sufficient, the costs of the survey shall be paid by the person or persons upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to such person or persons.

147. If

Marine Board and Navigation Act.—1881.

PART II.

Compensation to seamen for unnecessary detention on charge of desertion.

147. If a seaman or apprentice belonging to any ship is detained on a charge of desertion or any kindred offence, and if, upon a survey of the ship being made under this Act, it is proved that she is not in a fit condition to proceed to sea, or that her accommodation is insufficient, the owner or master of the ship shall be liable to pay to such seaman or apprentice such compensation for his detention as the Court having cognizance of the proceedings may award.

Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply (if any) to be also entered.

148. Upon the commission of any of the offences enumerated in section 145 of this Act an entry thereof shall be made in the official log-book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

149. Every seafaring person whom the master of any ship is, under the authority of this Act, or of "The Merchant Shipping Act, 1854," or of any Act amending the same, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Deserters may be sent on board.

150. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the master, or the owner, or his agent so requires, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed; and may, in such case, order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which, by virtue of his then existing engagement, he may afterwards earn.

151. In

Marine Board and Navigation Act.—1881.

151. In all cases of desertion from any ship in any place abroad, the master shall produce the entry of such desertion in the official log-book to the person or persons required by "The Merchant Shipping Act, 1854," or any Act amending the same, to indorse on the agreement a certificate of such desertion, and shall, for every failure to comply with the provisions of this section, incur a penalty not exceeding Five Pounds.

PART II.

Entries of desertion abroad to be indorsed on agreement.

152. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or, if such voyage was to terminate in the province and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show, to the satisfaction of the Court, that he had sufficient reasons for leaving the ship.

Facilities for proving desertion, so far as concerns forfeiture of wages or emoluments.

153. A seaman or apprentice to the sea service shall not be liable to imprisonment for deserting or for neglecting or refusing without reasonable cause to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of his ship's sailing from any port, or for absence at any time without leave and without sufficient reason from his ship or from his duty.

Desertion and absence without leave.

Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from or refuses to proceed to sea, in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of police officers or constables, who are hereby directed to give the same if required, convey him on board: Provided that if the seaman or apprentice so requires he shall first be taken before some Court capable of taking cognizance of the matters to be dealt with according to law, and that if it appears to the Court before which the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, the master, mate, owner, ship's husband, or consignee, as the case may be, shall incur a penalty not exceeding Twenty Pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment.

If a seaman or apprentice to the sea service intends to absent himself from his ship or his duty, he may give notice of his intention either to the owner or to the master of the ship not less than forty-eight

*Marine Board and Navigation Act.—1881.***PART II.**

eight hours before the time at which he ought to be on board his ship; and in the event of such notice being given the Court shall not exercise any of the powers conferred on it by section 150 and this section of this Act.

Subject to the foregoing provisions of this section, the powers conferred by section 150 and this section of this Act may be exercised, notwithstanding the abolition of imprisonment for desertion and similar offences and of apprehension without warrant.

Nothing in this section shall affect section 131 of this Act.

Costs of procuring imprisonment may, to the extent of £3, be deducted from wages.

154. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman, not exceeding Three Pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Amount of forfeiture, how to be ascertained when seamen contract for the voyage.

155. Whenever any seaman contracts for wages by the voyage, or by the run, or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a calendar month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

156. All clothes, effects, wages, and emoluments, which, under the provisions hereinbefore contained, are forfeited for desertion shall be applied, in the first instance, in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the Court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid to the Board, and shall be carried to and form part of the revenue of the province; and, in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Questions of forfeiture may be decided in suits for wages.

157. Any question concerning the forfeiture of or deduction from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding

Marine Board and Navigation Act.—1881.

withstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

PART II.

158. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding Five Pounds; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Penalty for false statement as to last ship or name.

159. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log-book, and a copy of such entry shall be furnished, or the same shall be read over to the offender, and an entry of such reading over and of the reply (if any) made by the offender shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows, that is to say, if the offender is discharged in the province, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship or inter-colonial ship, to the satisfaction of the Superintendent of Mercantile Marine before whom the offender is discharged, and, in the case of a coast-trade ship, to the satisfaction of the Superintendent of Mercantile Marine at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such Superintendent of Mercantile Marine; and if, before the final discharge of the crew in the province, any such offender as aforesaid has entered into any of Her Majesty's ships, or has been discharged abroad, and the offence and such entries as aforesaid have been proved to the satisfaction of the officer in command of the ship into which he has so entered, or of the Consular Officer, officer of Customs, or other person by whose sanction he has been so discharged, and the fine has thereupon been deducted as aforesaid, and an entry of such deduction has then been made in the official log-book (if any), and signed by such officer or other person, on the return of the ship to the province the master or owner shall pay over such fine, in the case of foreign-going ships and inter-colonial ships, to the Superintendent of Mercantile Marine before whom the crew is discharged, and, in the case of coast-trade ships, to the Superintendent of Mercantile Marine at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall, for each such offence, incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct

Fines to be deducted from wages and paid to Superintendent of Mercantile Marine.

*Marine Board and Navigation Act.—1881.***PART II.**

misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert or harboring deserter.

160. Every person who, by any means whatever, persuades, or attempts to persuade, any seaman or apprentice to neglect or refuse to join or proceed to sea in, or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice, incur a penalty not exceeding Ten Pounds; and every person who wilfully harbors or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall, for every such seaman or apprentice so harbored or secreted, incur a penalty not exceeding Twenty Pounds.

Penalty for obtaining passage surreptitiously.

161. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding Twenty Pounds, or be liable to imprisonment, with or without hard labor, for any period not exceeding four weeks.

On change of masters, documents hereby required to be handed over to successor.

162. If during the progress of a voyage the master is superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall, in default, incur a penalty not exceeding One Hundred Pounds; and such successor shall, immediately on assuming the command of the ship, enter in the official log-book a list of the documents so delivered to him.

Deaths occurring at Sea or Abroad.

Inquiry into cause of death on board.

163. Whenever any case of death happens on board any foreign-going ship or intercolonial ship, the Superintendent of Mercantile Marine, or other person appointed for the purpose by the Board, shall, on the arrival of such ship at a port in the province, inquire into the cause of such death, and shall make an entry in such book, or upon such document as the Board may direct, to the effect either that the statement of the cause of death therein contained is in his opinion true or otherwise, as the result of the inquiry requires; and every such Superintendent of Mercantile Marine or other person as aforesaid shall, for the purpose of such inquiry, have the powers given to inspectors or surveyors appointed by the Board under this Act; and if, in the course of such inquiry, it appears to him that any such death as aforesaid has been caused by violence or other improper means, he shall either report the matter to the Board, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

Custody

*Marine Board and Navigation Act.—1881.**Custody of Documents respecting Seamen.*

PART II.

164. All Superintendents of Mercantile Marine shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where such documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of such purposes, and shall then transmit them to the Superintendents of Mercantile Marine at the ports at which the ships are registered, to be by them recorded and preserved; and any Superintendent of Mercantile Marine shall, on payment of a moderate fee, to be fixed by the Board, or without payment of any fee if the Board so direct, allow any person to inspect the same; and, in cases in which the production of the original of any such document in any Court of Justice or elsewhere is essential, shall produce the same, and in other cases shall make and deliver to any person requiring it a certified copy of any such document or of any part thereof; and every copy purporting to be so made and certified shall be received in evidence, and shall have all the effect of the original of which it purports to be a copy.

Superintendents of Mercantile Marine to transmit and record documents, to permit inspection, to produce originals and give copies.

Official Logs.

165. The Board shall sanction forms of official log-books, which may be different for different classes of ships, so that each such form contains blanks for the entries hereinafter required; and an official log-book of every ship (except ships employed exclusively in trading between ports on the coasts of the province) shall be kept in the appropriate sanctioned form; and such official log-book may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log-book or united therewith, so that in all cases all the blanks in the official log-book be duly filled up.

Official log-books to be kept in forms sanctioned by Marine Board.

166. Every entry in every official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries to be made in due time.

167. Every master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters, that is to say—

Entries required in official log-book.

I. Every legal conviction of any member of his crew, and the punishment inflicted:

Convictions.

II. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the

Offences.

*Marine Board and Navigation Act.—1881.***PART II.**

	the reading over of such entry, and concerning the reply (if any) made to the charge, as hereinbefore required :
Punishments.	III. Every offence for which punishment is inflicted on board, and the punishment inflicted :
Conduct, &c., of crew	IV. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars :
Illnesses and injuries.	V. Every case of injury or illness happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any) :
Marriages.	VI. Every marriage taking place on board, with the names and ages of the parties :
Deaths.	VII. Every case of death happening on board, and of the cause thereof :
Births.	VIII. Every birth happening on board, with the sex of the infant, and the names of the parents :
Quitting ship.	IX. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof :
Wages of men entering navy.	X. The amount of wages due to any seaman who enters Her Majesty's service during the voyage :
Wages of deceased seamen.	XI. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom :
Sale of deceased men's effects.	XII. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it :
Collisions.	XIII. Every collision with any other ship, and the circumstances under which the same occurred.

Entries, how to be signed.

168. The entries hereby required to be made in official log-books shall be signed as follows, that is to say—every such entry shall be signed by the master and by the mate, or some other of the crew, and every entry of illness, injury, or death, shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies, shall be signed by the master and by the mate, and some other member of the crew; and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman, or by the officer authorised to receive the seaman into such service.

Penalties in respect official logs.

169. The following offences in respect of official log-books shall be punishable as hereinafter mentioned, that is to say—

- I. If in any case an official log-book is not kept in the manner hereby

*Marine Board and Navigation Act.—1881.***PART II.**

hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall, for each such offence, incur the specific penalty herein mentioned in respect thereof; or, where there is no such specific penalty, a penalty not exceeding Five Pounds:

- II. Every person who makes, or procures to be made, or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, shall, for each such offence, incur a penalty not exceeding Thirty Pounds:
- III. Every person who wilfully destroys, or mutilates, or renders illegible any entry in any official log-book, or who wilfully makes, or procures to be made, or assists in making any false or fraudulent entry or omission in any such log-book, shall, for each such offence, be deemed guilty of a misdemeanor.

170. All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

Entries in official logs to be received in evidence.

171. In the case of foreign-going ships and intercolonial ships the master shall, within forty-eight hours after the ship's arrival at any port in the province, or upon the discharge of the crew, whichever first happens, deliver to the Superintendent of Mercantile Marine, before whom the crew is discharged, the official log-book of the voyage; and every master who refuses or neglects to deliver his official log-book as hereby required, shall, for every default, incur a penalty not exceeding Five Pounds.

Official logs to be delivered to Superintendent of Mercantile Marine.

172. If any ship ceases, by reason of transfer of ownership, or change of employment, to fall within the definition of a foreign-going ship, or intercolonial ship, the master or owner thereof shall, if such ship is then in the province within one month, and, if she is elsewhere, within six months, deliver or transmit to the Superintendent of Mercantile Marine at the port to which the ship belonged the official log-book (if any), duly made out to the time at which she ceased to be a foreign-going ship, or intercolonial ship, and in default shall, for each offence, incur a penalty not exceeding Ten Pounds; and if any ship is lost or abandoned the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Superintendent of Mercantile Marine at the nearest port the official log-book (if any), duly made out to the time of such loss or abandonment, and in default shall, for each offence, incur a penalty not exceeding Ten Pounds.

Official logs to be sent home in case of transfer of ship, and in case of loss.

PART III.

PART III.

SAFETY, AND PREVENTION OF ACCIDENTS.

Application.

Application of Part
III. of Act.

173. All British ships registered at, trading with, or being at any place within the Province of South Australia shall be subject to all the provisions contained in the Third Part of this Act.

Unseaworthy Ships.

Sending unseaworthy
ships to sea a
misdemeanor.

174. Every person who sends, or attempts to send, or is party to sending, or attempting to send, from any port or place in the province, a ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

Every master of a ship who knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

A misdemeanor under this section shall not be punishable upon summary conviction.

No prosecution under this section shall be instituted without the consent of the Board.

Power to detain
unsafe ships, and
procedure for such
detention.

175. Where a ship registered at, trading with, or being at any place within the said province is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, any such ship (hereinafter referred to as "unsafe") may be provisionally detained for the purpose of being surveyed, and either finally detained or released as follows—

1. The Board, or any detaining officer appointed as hereinafter mentioned, if he or they have reason to believe, on complaint or otherwise, that a ship is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed:
11. When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Board may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to them :

III. The

*Marine Board and Navigation Act.—1881.*PART III.

- III. The Board, on receiving the report, may either order the ship to be released, or, if in their opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Board think necessary for the protection of human life, and may from time to time vary or add to any such order:
- IV. Before the order for final detention is made, a copy of the report shall be served by the Board upon the master of the ship, and, within seven days after such service, the owner or master of the ship may appeal in the prescribed manner to a Court of Survey (hereinafter mentioned) at the port where the ship is detained:
- V. Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes such survey may require that he shall be accompanied by such person, possessing like qualifications with those required to be possessed by assessors appointed under this Act, as the owner or master may select; and in such case, if the surveyor and such person agree, the Board shall cause the ship to be detained or released accordingly; but, if they differ, the Board may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section:
- VI. Where a ship has been provisionally detained, the Board may at any time, if they think it expedient, refer the matter to a Court of Survey at the port where the ship is detained:
- VII. The Board may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either upon or without any conditions:
- VIII. Officers may be appointed by the Board to be detaining officers, and such detaining officers shall have the same power as the Board have under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and if any such detaining officer thinks that a ship so detained by him is not unsafe, he may order her to be released:
- IX. A detaining officer shall forthwith report to the Board any order made by him for the detention or release of a ship.

176. Where under this Act any ship is authorised or ordered to be detained, if such ship after such detention, or after service on the master of any notice of or order for such detention, proceeds to sea before

Enforcing detention.

Marine Board and Navigation Act.—1881.

before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if such owner or person be party or privy to the offence, shall forfeit and pay a penalty not exceeding One Hundred Pounds.

Penalty on taking
detaining officer to
sea.

177. Where a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer authorised to detain the ship, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer being so taken to sea, and also a penalty not exceeding One Hundred Pounds, or, if the offence is not prosecuted in a summary manner, not exceeding Ten Pounds for every day until the officer returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and such expenses may be recovered in like manner as the penalty.

Constitution of Court
of Survey for
Appeals.

178. A Court of Survey for a port shall consist of a Special Magistrate, with the assistance of two assessors.

The assessors shall be persons of nautical, engineering, or other special skill and experience; to be appointed by the Governor as hereinbefore provided.

The clerk of the nearest Local Court to the port at which the ship is detained, or such other person as the Special Magistrate may appoint, shall be the clerk of the Court of Survey.

The clerk of the Court shall, on receiving notice of an appeal or a reference from the Board, immediately summon the Court in the prescribed manner to meet forthwith.

Power and procedure
of Court of Survey.

179. With respect to a Court of Survey the following provisions shall have effect—

- i. The case shall be heard in open Court:
- ii. The Special Magistrate and each assessor may survey the ship and shall have all the powers of an inspector or surveyor appointed by the Board under this Act:
- iii. The Special Magistrate may appoint any competent person or persons to survey the ship and report thereon to the Court:
- iv. The Special Magistrate shall have the same power as the Board has to order the ship to be released or finally detained; but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released:
- v. The owner and master of the ship, and any person appointed by the owner or master, and also any person appointed by the Board, may attend at any inspection or survey made in pursuance of this section:

vi. The

Marine Board and Navigation Act.—1881.

- vi. The Special Magistrate shall send to the Board the prescribed report, and each assessor shall either express his concurrence in such report by signing the same, or report to the Board the reasons for his dissent therefrom.

PART III.

180. The Board may make general rules to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular, with respect to the summoning of and procedure before the Court, the requiring, on an appeal, security for costs and damages, the amount and application of fees, and the publication of the rules.

Rules for procedure of Court of Survey.

All such rules while in force shall have effect as if enacted in this Act; and the expression "prescribed," in the provisions of this Act relating to the detention of ships or to a Court of Survey, means prescribed by such rules.

181. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship, the Board shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Board and shipowner for costs and damages.

If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was, at the time of such detention, unsafe within the meaning of this Act, the owner of the ship shall be liable to pay to the Board the costs of and incidental to the detention and survey of the ship; and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer appointed by the Board, shall be deemed to be part of the costs of the detention and survey of the ship; and any dispute as to the amount of costs under this Act may be referred to the Master of the Supreme Court, who, on request made to him for that purpose by the Board, shall ascertain and certify the proper amount of such costs.

182. Where a complaint is made to the Board or a Detaining Officer that a ship is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as hereinafter mentioned.

Power to require from complainants security for costs.

Provided that where the complaint is made by one-fourth, being not less than three of the seamen belonging to the ship, and is not in the opinion of the Board or detaining officer frivolous or vexatious, such security shall not be required; and the Board or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained under this Act.

Where

*Marine Board and Navigation Act.—1881.***PART III.**

Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board are liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Board all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.

Supplementary provision as to detention of ship.

- 183.** (I.) A Detaining Officer shall have, for the purpose of his duties under this Act, the same powers as an inspector appointed by the Board under this Act:
- (II.) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship:
- (III.) When a ship has been detained under this Act she shall not be released by reason of her British register being subsequently closed:
- (IV.) The provisions of this Act with respect to persons who wilfully impede an inspector, or disobey a requisition or order of an inspector, shall apply as if those provisions were herein enacted, with the substitution for the Inspector of any Justices, Magistrate, assessor, officer, or surveyor who, under this Act, has the same powers as an Inspector or has authority to survey a ship.

Foreign Ships Overloading.

Application to foreign ships of provisions as to detention.

184. Where a foreign ship has taken on board all or any part of her cargo at a port in the province, and is, whilst at that port, unsafe by reason of overloading or improper loading, the provisions of this Act with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications—

- I. A copy of the order for the provisional detention of the ship shall be forthwith served on the Consular Officer for the State to which the ship belongs at or nearest to the place where the ship is detained:
- II. Where a ship has been provisionally detained, the Consular Officer, on the request of the owner or master of the ship, may require that the person appointed by the Board to survey the ship shall be accompanied by such person as the Consular Officer may select, and in such case, if the surveyor and such person agree, the Board shall cause the ship to be detained or released accordingly; but if they differ, the Board may act as if the requisition had not been made, and the owner and master shall have the appeal to a Court of Survey touching the report of the surveyor which is before provided by this Act; and,

III. Where

*Marine Board and Navigation Act.—1881.***PART III.**

- III. Where the owner or master of the ship appeals to a Court of Survey, the Consular Officer, on the request of such owner, or master, may appoint any competent person, who shall be assessor in such case.

In this section, the expression "Consular Officer" means any Consul-General, Vice-Consul, Consular-Agent, or other officer duly recognised as a Consular Officer of a foreign State.

*Appeals on Refusal of certain Certificates to Ships.***185.** If a shipowner feels aggrieved—

Appeal on refusal of certain certificates to ships.

- I. By a declaration of a surveyor respecting a passenger steamer, or by the refusal of a surveyor to give the said declaration: or
 - II. By the refusal of a certificate of clearance for an emigrant ship from an Emigration Officer, officer appointed by the Board, or other officer mentioned in sections eleven and fifty of "The Passengers Act, 1855," and the enactments amending the same: or
 - III. By the refusal of a certificate as to lights or fog-signals,
- the owner may appeal, in the prescribed manner, to a Court of Survey at the port where the ship for the time being is.

On such appeal the Court of Survey shall report to the Board on the question raised by the appeal, and the Board, when satisfied that the requirements of the report and the other provisions of this Act and of the above-mentioned enactments have been complied with, may—

- I. In the case of a passenger steamer, direct that a certificate be issued under section 215 of this Act; and,
- II. In the case of an emigrant ship, direct the Emigration, or other officer, to give a certificate of clearance under the above-mentioned enactments; and,
- III. In the case of a refusal of a certificate as to lights or fog-signals, direct a surveyor, or other person appointed by him, to give a certificate under subsection III. of section 204 of this Act.

Subject to any order made by the Court of Survey, the costs of and incidental to an appeal under this section shall follow the event.

Subject as aforesaid, the provisions of this Act with respect to the Court of Survey and appeals thereto, so far as consistent with the tenor thereof, shall apply to the Court of Survey when acting under this section, and to appeals under this section.

Where the survey of a ship is made for the purpose of a declaration or certificate under this Act or the above-recited enactments,

*Marine Board and Navigation Act.—1881.***PART III.**

the person appointed to make the survey shall, if so required by the owner, be accompanied on the survey by some competent person appointed by the owner; and in such case, if the said two persons agree, there shall be no appeal to the Court of Survey in pursuance of this section.

Scientific Referees.

Reference in difficult cases to scientific persons.

186. If the Board are of opinion that an appeal under this Act involves a question of construction or design, or of scientific difficulty or important principle, they may refer the matter to one or more scientific referees appointed by the Treasurer as may appear to possess the special qualifications necessary to the particular case; and thereupon the appeal shall be determined by the referee or referees, instead of by a Court of Survey.

The Board, if the appellant in any appeal so require and give security to their satisfaction to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so to be appointed as aforesaid.

The referee or referees shall have the same powers as a Court of Survey.

Cables and Anchors.

No chain cable or anchor exceeding 168lbs. to be sold without being tested.

187. After the commencement of this Act, a maker of or dealer in anchors and chain cables shall not sell or contract to sell, nor shall any person purchase or contract to purchase, for the use of any ship, any chain cable or any anchor exceeding in weight one hundred and sixty-eight pounds which has not been previously tested and stamped in accordance with the Acts of Parliament of the United Kingdom of Great Britain and Ireland, intituled "The Chain Cables and Anchors Acts, 1864 to 1874." Any person who acts in contravention of this section shall be deemed to be guilty of a misdemeanor.

Cables and anchors of alleged unseaworthy ships.

188. Whenever any ship is surveyed or detained under this Act on the ground of alleged unseaworthiness, the Board may direct an inquiry into the condition of the cables and anchors, and, if they have not been tested according to the Acts of Parliament of the United Kingdom of Great Britain and Ireland, intituled "The Chain Cables and Anchors Acts, 1864 to 1874," may make such further order as they think requisite previous to her release.

Ship's Draught, and Clear Side.

Ship's draught of water and clear side to be recorded.

189. The Board may, in any case or class of cases in which they think it expedient so to do, direct any person appointed by them for the purpose to record, in such manner and with such particulars as they direct, the draught of water of any sea-going ship, as shown on the scale of feet on her stem and on her stern post, upon her leaving any wharf or port for the purpose of proceeding to sea; also to measure and record the extent of her clear side in feet and inches; and such person shall thereupon keep such

*Marine Board and Navigation Act.—1881.***PART III.**

such record, and shall from time to time forward the same or a copy thereof to the Board; and such record, or any copy thereof, if produced by or out of the custody of the Board, shall be admissible in evidence of the draught of water and extent of clear side of the ship at the time specified in the record.

The term "clear side" means the height from the water to the upper side of the plank of the deck from which the depth of hold, as stated in the register, is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

190. The master of every sea-going ship shall, upon her leaving any wharf or port for the purpose of proceeding to sea, record her draught of water and the extent of her clear side in feet and inches in the official log-book (if any), and shall produce such record to the Board whenever required by them so to do, or, in default of such production, shall incur a penalty not exceeding Twenty Pounds; and shall, upon the request of any person appointed to record the ship's draught of water or clear side, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record; and any master who fails so to do, or impedes, or suffers any one under his control to impede any person so appointed in the execution of his duty, shall, for each offence, incur a penalty not exceeding Five Pounds.

Particulars to be entered in official log.

Deck and Load Lines.

191. Every ship (except ships under eighty tons register employed solely in the coast-trade, ships employed solely in fishing, and pleasure yachts) shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships, or as near thereto as is practicable, and indicating the position of each deck which is above water. The upper edge of each of these lines shall be level with the upper side of the deck plank next the water-way at the place of marking. The lines shall be white or yellow on a dark ground, or black on a light ground.

Marking of deck lines.

192. With respect to the marking of a load-line on ships, the following provisions shall have effect—

Marking of load-line on ships.

- i. The owner of every ship (except ships under eighty tons register employed solely in the coast-trade, ships employed solely in fishing, and pleasure yachts) shall, before entering his ship outwards from any port in the province upon any voyage for which he is required so to enter her, or, if that is not practicable, as soon afterwards as may be, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre:

ii. The

*Marine Board and Navigation Act.—1881.***PART III.**

- ii. The centre of this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship for that voyage :
- iii. He shall also, upon so entering her, insert in the form of entry delivered to the Collector of Customs, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre :
- iv. If default is made in delivering this statement in the case of any ship, any officer of Customs may refuse to enter the ship outwards :
- v. The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no Superintendent of Mercantile Marine shall proceed with the engagement of the crew until this entry is made :
- vi. The master of the ship shall also enter a copy of this statement in the official log-book :
- vii. When a ship has been marked as by this section required, she shall be kept so marked until her next return to a port of discharge in the province.

Marking of load-line
on coast-trade ships.

193. With respect to the marking of a load-line on ships employed in the coast trade, the following provisions shall have effect —

- i. The owner of every ship employed in the coast trade of the province (except ships under fifty tons register employed solely in that trade) shall, before proceeding to sea from any port, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre :
- ii. The centre of this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship, until notice is given of an alteration :
- iii. He shall also, once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Board a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre :
- iv. The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Board notice in writing of such renewal or alteration,
together

*Marine Board and Navigation Act.—1881.*PART III.

together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines:

- v. If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the owner shall be liable to a penalty not exceeding One Hundred Pounds:
- vi. When a ship has been marked as by this section required, she shall be kept so marked until notice is given of an alteration.

194. Any owner or master of a ship who neglects to cause his ship to be marked as by this Act required, or to keep her so marked, or who allows the ship to be so loaded as to submerge in salt water the centre of the disc, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding One Hundred Pounds. If any of the marks required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding One Hundred Pounds.

Penalty for offences in relation to marks on ships.

Equipments.

195. It shall be the duty of the owner of every ship to see that such ship is properly equipped; and no sea-going ship shall be deemed to be properly equipped unless—

Ships to be properly equipped.

- i. She is provided with all necessary charts for her intended voyage, efficient boats, rafts, or other appliances for saving life, kept at all times fit and ready for use, and supplied with all requisites for use, sufficient in number, and of the size and description proper for such ship, according to rules which may be fixed by the Board, or, in the absence thereof, according to rules for the time being in force under "The Merchant Shipping Act, 1854," or any Acts amending the same, regard being had to the number of persons carried, the size of the ship, the nature and duration of the voyage, and like circumstances, and with a sufficient number of life-buoys and life-jackets, or either of them, for use in emergency:
- ii. If carrying more than ten passengers, she is, besides the boats, rafts, other appliances, life-buoys, and life-jackets, or either of them, aforesaid, provided with a life-boat, or a sufficient number of life-boats, kept at all times fit and ready for use, and supplied with all requisites for use:
- iii. If built wholly, or partly of iron, she has her compasses properly adjusted from time to time to the satisfaction of an adjuster of compasses, or shipwright-surveyor appointed by the

*Marine Board and Navigation Act.—1881.***PART III**

the Board, and according to such regulations as from time to time may be made by the Board.

Penalties on masters and owners, &c., neglecting to provide equipments.

196. In any of the following cases, that is to say—

- I. If any ship proceeds to sea without being equipped as hereinbefore provided, or if any of such equipments are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master: or
- II. If, in case of any such equipments being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity: or
- III. If such equipments are not kept so as to be at all times fit and ready for use:

then, if the owner appears to be in fault, he shall incur a penalty not exceeding One Hundred Pounds, and, if the master appears to be in fault, he shall incur a penalty not exceeding Fifty Pounds.

Officers of Customs not to clear ships not complying with the above provision.

197. Any officer of Customs may refuse to grant a clearance or transire for any ship unless equipped as hereinbefore provided; and if any such ship attempts to go to sea without such clearance or transire any such officer may detain her until she is so provided.

Lights and Fog-Signals, and Meeting and Passing.

Enactment of regulations concerning lights, fog-signals, and sailing rules.

198. On and after a day to be fixed by the Governor, by Proclamation in the *Government Gazette*, the regulations contained in Schedule B hereto shall come into operation, and be of the same force as if they were enacted in the body of this Act; but it shall be lawful for the Governor, on the recommendation of the Board, by Proclamation as aforesaid, to annul or modify any of the said regulations, or make new regulations in addition thereto or in substitution therefor, and any alterations in, or additions to, such regulations made in manner aforesaid, shall be of the same force as the regulations in the said Schedule.

Regulations to be published.

199. The Board shall cause the said regulations, and any alterations therein or additions thereto hereafter to be made, to be printed, and shall furnish a copy thereof to any owner or master of a ship who applies for the same, and the production of the *Gazette* in which any Proclamation containing such regulations, or any alterations therein, or additions thereto, published, or of a copy of such regulations, alterations, or additions, signed, or purporting to be signed, by the secretary, or sealed, or purporting to be sealed, with the seal of the Board, shall be sufficient evidence of the making of such regulations, alterations, or additions.

200. All

Marine Board and Navigation Act.—1881.

200. All owners and masters of ships shall be bound to take notice of all such regulations as aforesaid, and shall, so long as the same continue in force, be bound to obey them, and to carry and exhibit no other lights, and to use no other fog signals than such as are required by the said regulations: And in case of wilful default, the master or the owner of the ship, if it appear that he was in fault, shall, for each occasion upon which any regulation is infringed, incur a penalty not exceeding Fifty Pounds, in addition to his liability for any damages that may have been occasioned by his default.

PART III.

Owners and masters bound to obey regulations.

201. In case any damage to person or property arises from the non-observance by any ship of any of such regulations, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of such ship at the time, unless it is shown to the satisfaction of the Court before which the case is tried that the circumstances of the case made a departure from the regulation necessary.

Breach of regulations to imply wilful default of person in charge.

202. If in any case of collision it is proved to the Court before which the case is tried that any of the regulations for preventing collisions has been infringed, the ship by which such regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the Court that the circumstances of the case made departure from the regulation necessary.

Liability for infringement of regulations in case of collision.

203. In every case of collision between two ships, it shall be the duty of the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew, and passengers (if any), to stay by the other ship until he has ascertained that she has no need of further assistance, and to render to the other ship, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision; and also to give to the master or person in charge of the other ship the name of his own ship, and of her port of registry, or of the port or place to which she belongs, and also the names of the ports or places from which and to which she is bound.

Duties of masters in case of collision.

If he fails so to do, and no reasonable cause for such failure is shown, the collision shall, in absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Every master or person in charge of a ship who fails, without reasonable cause, to render such assistance or give such information as aforesaid, shall be deemed guilty of a misdemeanor, and, if he is a certificated officer, an inquiry into his conduct may be held, and his certificate may be cancelled or suspended in the same manner and with the same powers in and with which investigations into shipping casualties are directed to be conducted under the provisions contained in the Fourth Part of this Act.

204. The

*Marine Board and Navigation Act.—1881.***PART III.**

204. The following steps may be taken in order to enforce compliance with the said regulations, that is to say—

Inspection for
enforcing regulations.

- I. The surveyors appointed under this Act, or such other persons as the Board may appoint for the purpose, may inspect any ships for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals in pursuance of the said regulations; and shall, for that purpose, have the powers given to inspectors by this Act:
- II. If any such surveyor or person finds that any ship is not so provided, he shall give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same:
- III. Every notice so given shall be communicated, in such manner as the Board may direct, to the Collector of Customs at any port or ports from which such ship may seek to clear, or at which her transire is to be obtained; and no Collector of Customs to whom such communication is made shall clear such ship outwards, or grant her a transire, or allow her to proceed to sea without a certificate, under the hand of the Secretary or one of the said surveyors or other persons appointed by the Board as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations.

Penalty for wrong-
fully using signals of
distress.

205. The signals specified in Schedule C hereto, or any other signals which may from time to time be proclaimed under sub-sections III. and IV. of section 206 of this Act, shall be deemed to be signals of distress. Any master of a ship who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals of distress hereinafter mentioned, except in the case of a ship being in distress, shall be liable to pay compensation for any labor undertaken, risk incurred, or loss sustained in consequence of such signal having been supposed to be a signal of distress, and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

Equipment of Steamships.

Equipment of
Steamships.

206. Steamships shall, in addition to the equipments prescribed by section 195 of this Act, be provided as follows, that is to say—

Safety-valve.

- I. Every steamship of which a survey is hereby required shall be provided with a safety-valve upon each boiler, so constructed as to be out of the control of the engineer when the steam is up, and provided with proper lifting gear; and, if such valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less and a pressure not greater than the area of and pressure on that valve:
- II. Every

Marine Board and Navigation Act.—1881.

11. Every sea-going steamship (unless used solely as a steamtug) shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship, and capable of being connected with the engines of the ship: PART III.
Fire-hose.
111. Every sea-going steamship shall be provided with the means for making the signals of distress mentioned in the Schedule C hereto; but it shall be lawful for the Governor from time to time, on the recommendation of the Board, by Proclamation, to annul or modify the said Schedule, or make new regulations in addition to, or in substitution therefor, and any additions or substitutions made in manner aforesaid shall be of the same force as the said Schedule: Signals.
- 1V. Every sea-going steamship shall be provided with means of making flames in the ship which are inextinguishable in water, or such other means of making signals of distress as the Governor may from time to time, by Proclamation as aforesaid, approve, together with a proper supply of lights inextinguishable in water, and fitted for attachment to life-buoys:
- v. Every coast-trade steamship employed to carry passengers by sea shall be provided with means of making signals of distress according to regulations that may from time to time be made by the Board, and with shelter for the protection of deck passengers (if any) as the Board, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case may require. Signals of distress
and shelter for deck
passengers.

And if any steamship as aforesaid plies or goes to sea from any port in the province without being so provided as hereinbefore required, then, for each default in any of the above requisites, the owner shall (if he appears to be in fault) incur a penalty not exceeding One Hundred Pounds, and the master shall (if he appears to be in fault) incur a penalty not exceeding Fifty Pounds.

207. If any person places an undue weight on the safety-valve of any steamship, or, in the case of steamships surveyed as hereinafter mentioned, increases such weight beyond the limits fixed by such engineer-surveyor as hereinafter mentioned, he shall, in addition to any other liabilities he may incur by so doing, incur a penalty not exceeding One Hundred Pounds. Penalty for improper
weight on safety-
valve.

Survey of Steamships.

208. Every steamship shall be surveyed twice at the least in every year in the manner hereinafter mentioned. Steamships to be sur-
veyed twice in each
year.

209. The Board may from time to time appoint such number of fit and proper persons to be engineer-surveyors and shipwright-surveyors Board to appoint sur-
veyors and fix their
remuneration.

*Marine Board and Navigation Act.—1881.***PART III.**

surveyors for the purposes of this Act, at such ports and places as they think proper, and may from time to time remove such surveyors or any of them, and may from time to time fix and alter the rates of remuneration to be received by such surveyors.

Surveyors to have power to inspect.

210. Such engineer-surveyors and shipwright-surveyors may, in addition to the powers hereinbefore given to them in the execution of their duties, go on board any steamship at all reasonable times, and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, or any certificate of registry, or any certificates of the master, mates, or engineers to which the provisions of this Act or any of the regulations to be made by virtue thereof apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage; and if, in consequence of any accident to any such ship, or for any other reason, they consider it necessary so to do, may require the ship to be taken into dock for the purpose of surveying the hull thereof.

Penalty on surveyors receiving fees unlawfully.

211. Every surveyor who demands or receives, directly or indirectly, from the owner or master of any ship surveyed by him under the provisions of this Act, any fee or remuneration whatsoever for or in respect of such survey, otherwise than as the officer and by the direction of the Board, shall incur a penalty not exceeding Fifty Pounds.

Owners to have surveys made by surveyors, and surveyors to give declarations.

212. The owner of every steamship shall cause the same to be surveyed as herein directed by an engineer-surveyor, and by a shipwright-surveyor, and such surveyors shall thereupon, if satisfied that they can with propriety do so, give to such owner declarations as follows:—The declaration of the said shipwright-surveyor shall contain statements of the following particulars, that is to say—

- I. That the hull of the ship is sufficient for the service intended, and in good condition:
- II. That the partitions, boats, rafts, life-buoys, or other appliances for saving life, lights, signals, compasses, and shelter for deck passengers, and the certificates of the master and mates are such, and in such condition, as required by this Act:
- III. The time (if less than six months) for which the said hull and equipments will be sufficient:
- IV. The limits (if any) beyond which, as regards the hull and equipments, the ship is, in the surveyor's judgment, not fit to ply:
- V. The number of passengers which the ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins; such numbers to be subject to such conditions and

Marine Board and Navigation Act.—1881.

and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires.

PART III.

The declaration of the said engineer-surveyor, shall contain statements of the following particulars, that is to say—

- i. That the machinery of the ship is sufficient for the service intended, and in good condition :
- ii. That the safety-valves and fire-hose are such, and in such condition as are required by this Act :
- iii. The limits of the weight to be placed on the safety-valves :
- iv. The time (if less than six months) for which such machinery will be sufficient :
- v. The limits (if any) beyond which, as regards the machinery, the ship is, in the surveyor's judgment, not fit to ply :
- vi. That the certificate or certificates of the engineer or engineers of such ship, is or are such, and in such condition, as is required by this Act :

And such declarations shall be in such form as the Board direct.

213. The said owner shall transmit such declarations to the Secretary within three days after the date of the receipt thereof ; and in default shall forfeit a sum not exceeding Ten Shillings for every day that the sending of such declarations is delayed ; and such sum shall be paid upon the delivery of the certificate hereinafter mentioned, in addition to the fee payable for the same, and shall be applied in the same manner as such fees.

*Transmission of
declarations to
Secretary.
Penalty for delay.*

214. In all cases where it is possible, the said half-yearly surveys shall be made, and the declarations shall be transmitted, as hereinbefore required, prior to the expiration of the then existing certificate granted as hereinafter provided ; but if the owner of any steamship is unable to have the same surveyed within the time hereinbefore prescribed, either by reason of such ship being absent from the province, or by reason of such ship or the machinery thereof being under construction or repair, or of such ship being laid up in dock, or for any other reason satisfactory to the Board, then he shall have the same surveyed as aforesaid as soon thereafter as possible, and shall transmit such declarations to the Secretary, within three days after the receipt thereof, together with a statement of the reasons which have prevented the survey of such ship at the time hereinbefore prescribed, and shall, in case of delay in transmitting the declarations, be liable to a forfeiture similar to that mentioned in the last preceding section.

*Times appointed for
surveys and trans-
mission of declara-
tions.*

215. Upon the receipt of such declarations, the Board shall, if satisfied that the provisions of this Act have been complied with, cause a certificate to be prepared and issued to the effect that the

*Marine Board to
issue certificates.*

*Marine Board and Navigation Act.—1881.***PART III.**

the provisions of the law with respect to the survey of the ship and the transmission of the declarations in respect thereof have been complied with ; and such certificate shall state the limits (if any) beyond which, according to the declarations of the surveyors, such ship is not fit to ply, and shall also contain a statement of the number of passengers which, according to the declaration of the surveyor, such ship is fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins, such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried, and other circumstances, as the case requires.

Issue and transmission of certificates.

216. The Secretary shall hand such certificate to the master or owner, or his agent, and shall obtain on the duplicate of such certificate (which said duplicate shall be retained by the Board) an acknowledgment from the master or owner, or his agent, of the receipt of such certificate ; or shall transmit such certificate, by post or otherwise, to the Collector of Customs or some other public officer at such port as the master or owner, or his agent may mention for the purpose, and the said Collector of Customs or officer as aforesaid shall deliver such certificate to the said master, owner, or his agent, on his applying for the same ; and in proving the due issue and delivery or transmission to the master, owner, or his agent of such certificate, it shall be sufficient to produce the duplicate of such certificate containing the acknowledgment, as aforesaid, or to show that such certificate has been duly received by such Collector of Customs or officer as aforesaid, as the case may be.

How long certificates to continue in force.

217. No certificate shall be in force for the purposes of the Third Part of this Act beyond the date fixed for the expiration thereof ; and no certificate shall be in force after notice is given by the Board to the owner, agent, or master of the ship to which the same relates, that such Board has cancelled or revoked the same : Provided that if any steamship is absent from the province at the time when her certificate expires, no penalty shall be incurred for the want of a certificate until she first begins to ply after her next subsequent return to the province. And the Board may require any certificate which has expired, or has been revoked or cancelled, to be delivered up as they direct ; and any owner or master who, without reasonable cause, neglects or refuses to comply with such requirement shall incur a penalty not exceeding Ten Pounds.

Marine Board may cancel certificates and require fresh declarations.

218. The Board may revoke and cancel such certificates in any case in which they consider—

- i. That the declaration or declarations of the sufficiency and good condition of the hull, equipments, and machinery of any steamship have been fraudulently or erroneously made : or,
- ii. That such certificate has otherwise been issued upon false or erroneous information : or,
- iii. That

*Marine Board and Navigation Act.—1881.***PART III.**

111. That since the making of such declarations the hull, equipments, or machinery of any ship have been materially altered, or have sustained any injury, or are otherwise insufficient:

And in every such case the Board may, if they think fit, require the owner to have the hull, equipments, or machinery of such ship again surveyed, and to transmit further declarations of the sufficiency and good condition thereof, before re-issuing any certificate or granting a fresh one in lieu thereof.

219. The owner or master of every steamship shall forthwith, on the delivery of any such certificate as aforesaid to him or his agent, cause it to be put up in some conspicuous part of the ship, so as to be visible to all persons on board the same, and shall cause it to be so continued so put up so long as such certificate remains in force and such ship is in use; and in default such owner or master shall, for every offence, incur a penalty not exceeding Ten Pounds.

Certificate to be placed in conspicuous part of ship.

220. It shall not be lawful for any steamship to proceed to sea or upon any voyage or excursion, or to ply on any lake, river, or in any port with or without any passengers on board, unless the owner or master thereof has received such a certificate as hereinbefore provided for, such certificate being a certificate applicable to the voyage or excursion on which such ship is about to proceed; and no officer of Customs shall grant any clearance or transire for any steamship unless upon the production of such certificate as aforesaid (being a certificate then in force and applicable as aforesaid); and if any steamship attempts to ply or go to sea without such production, any such officer may detain her until such certificate is produced; and if any steamship plies or goes to sea, with or without any passengers on board, without having such certificate as aforesaid (being a certificate then in force, and applicable as aforesaid) so put up as aforesaid in some conspicuous part of the ship, the owner thereof shall, for such offence, incur a penalty not exceeding One Hundred Pounds, and the master of such ship shall also incur a further penalty not exceeding Twenty Pounds.

Ship not to proceed on her voyage without certificate.

Repeal.

221. If the owner or master or other person in charge of any steamship receives on board thereof, or on or in any part thereof, or if such ship has on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number of passengers allowed by the certificate, the owner or master shall incur a penalty not exceeding Twenty Pounds, and also an additional penalty not exceeding Five Shillings for every passenger over and above the number allowed by the certificate, or, if the fare of any of the passengers on board exceeds Five Shillings, not exceeding double the amount of the fares of all the passengers who are over and above the number so allowed as aforesaid, such fares to be estimated at the highest rate of fares payable by any passenger on board.

Penalty for carrying passengers in excess of number specified in certificate.

222. If

*Marine Board and Navigation Act.—1881.***PART III.****Water and provisions.**

222. If it shall appear that the master of any coast-trade steamship has neglected to issue to any passenger a sufficient quantity of wholesome water and provisions (unless such passenger shall have agreed to provide himself with such water or provisions), the owner, charterer, or master of such ship shall be liable, on conviction, for every such offence, to a penalty not exceeding Twenty Pounds.

Forgery of declaration or certificate a misdemeanor.

223. Every person who knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration or certificate with respect to any steamship requiring a certificate under the Third Part of this Act, or who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any declaration or certificate required by the Third Part of this Act, or any words or figures in any such declaration or certificate, or any signature thereto, shall be deemed guilty of a misdemeanor.

Surveyors to make returns of the build and other particulars of steamships, and owners and masters to give information for that purpose.

224. The said surveyors shall from time to time make such returns to the Board as they require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of the ships surveyed by them; and every owner, master, and engineer of any such ship shall, on demand, give to such surveyors all such information and assistance within his power as they require for the purpose of such returns; and every such owner, master, or engineer, who, on being applied to for that purpose, wilfully refuses or neglects to give such information or assistance, shall be liable to a penalty not exceeding Five Pounds.

Steamships with Board of Trade, colonial, or foreign certificates may be exempted from survey.

225. In every case where a certificate has been granted to any steamship by the Board of Trade of the United Kingdom, and remains still in force, it shall not be requisite that she shall be again surveyed under this Act; and in the case of a steamship having a certificate issued by the properly-constituted authority of any British Possession or foreign country, if the Board are satisfied that the certificate remains still in force, and is to the like effect, and is granted after a like survey, and in such manner as to be equally efficient with, a certificate granted under this Act, they may dispense with the survey required under this Act: Provided that such certificate shall be subject to the provisions of this Act.

Exemption of certain steamships from provisions with respect to survey.

226. The Board may from time to time, by writing under the hand of the Secretary, in such form as they may think fit, grant to the owner (or, in case there shall be no owner resident in the province, then to the master) of any steamship not employed in carrying passengers, and now or hereafter subject to the provisions of this Act, a certificate exempting the steamship named therein from the operation of the provisions of this Act relating to the survey of the hull, equipments, or machinery of any such steamship, but not further or otherwise; and any such certificate may be absolute or limited in any particular, and may be at any time cancelled and
revoked

*Marine Board and Navigation Act.—1881.***PART III.**

revoked by the Board; but no such certificate of exemption shall be granted for or in respect of any steamship carrying passengers.

227. If the owner or master of any steamship in respect of which a certificate of exemption has been granted shall receive on board or carry any passengers, the owner or master shall incur a penalty not exceeding Fifty Pounds; and, in addition, the certificate of exemption granted in respect of such steamship shall be absolutely forfeited, and no certificate of exemption under this Act shall at any time thereafter be granted to the master or owner of such vessel so long as she remains the property of the owner so offending, or in the charge of the master so offending against this Act.

Owner or master carrying passengers in an exempted steamship liable to penalty.

228. The master and engineer of every steamship in respect of which a certificate to ply within restricted limits has been granted under this Act, shall respectively hold either a certificate of competency or service appropriate to their respective stations in such ship, or of a higher grade; and any person who serves as such master or engineer of any such ship, without being at the time entitled to and possessed of such certificate, or who employs any person as master or engineer of any such ship without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence incur a penalty not exceeding Fifty Pounds.

Masters and engineers of steamships with restricted certificates to hold certificates of competency or service.

229. Every certificate of exemption shall, in case of the cancellation or revocation thereof, or in case of the forfeiture thereof, be forthwith delivered up to the Board, or to such person as they may appoint to receive the same; and in default, every owner or master neglecting or refusing to deliver up any such certificate shall be liable to a penalty for each offence not exceeding Fifty Pounds.

Penalty for not giving up cancelled certificates in certain cases.

Grain Cargoes.

230. No cargo which consists of any kind of grain, potatoes, corn, rice, paddy, pulse, seeds, nuts, or nut kernels, hereinafter referred to as "grain cargo," shall be carried on board any ship, unless such grain cargo be contained in bags, sacks, or barrels, secured from shifting by boards and bulkheads.

Stowage of grain cargo.

If the managing owner or master of any ship, or any agent of such owner who is charged with the loading of the ship, or the sending her to sea, knowingly allows any grain cargo, or part of a grain cargo, to be shipped therein for carriage contrary to the provisions of this section, he shall, for every such offence, incur a penalty not exceeding Three Hundred Pounds, to be recovered upon summary conviction.

Deck Cargoes.

231. If any ship, British or foreign, other than coast-trade ships, carries, as deck cargo, that is to say—in any uncovered space upon deck, or in any covered space not included in the cubical contents forming

Space occupied by deck cargo to be liable to dues.

*Marine Board and Navigation Act.—1881.***PART III.**

forming the ship's registered tonnage, timber, stores, or other goods, excepting fresh fruit, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by such goods at the time at which such dues become payable.

The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods.

The tonnage of such space shall be ascertained by an officer of the Board or of Customs in manner directed by Schedule D hereto, and when so ascertained shall be entered by him in the ship's official log-book, and also in a memorandum, which he shall deliver to the master, and the master shall, when the said dues are demanded, produce such memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document.

Description of deck cargo that may be carried.

232. No horses, cattle, sheep, or pigs shall be carried on the upper deck of any steamship unless properly secured in stalls or pens, properly constructed, erected for the purpose, with the approval of a surveyor or other person appointed by the Board, who may grant a general certificate for any such ship of the number of horses, cattle, goats, sheep, pigs, or other animals which, in his opinion, may be safely and conveniently carried on the deck thereof without encroaching on the deck space and accommodation required for the number of passengers specified in the certificate required under this Act; and no part of the cargo, or of the provisions, water, or stores, shall, without the special permission in writing of a surveyor, be carried on the upper deck, excepting fresh meat, poultry in coops or baskets, and fresh butter, eggs, fruit, and vegetables in baskets or wooden packages, and carts, carriages, and other vehicles; and all such articles shall be so placed as not to impede light or ventilation, or interfere with the comfort of the passengers; and if any articles or a greater number of horses or other animals than shall be certified as aforesaid shall be carried on deck contrary to the true intent and meaning of this Act, the master or owner of the ship carrying the same shall be liable to a penalty not exceeding Fifty Pounds.

PART IV.**PART IV.****WRECKS, CASUALTIES, AND SALVAGE.***Accidents.*

Accidents to ships to be reported to Board.

233. In any of the cases following, that is to say—

1. Whenever any ship is lost, abandoned, or has sustained damage affecting her seaworthiness or her efficiency, either in

*Marine Board and Navigation Act.—1881.***PART IV.**

in her hull or in any part of her machinery, on or near the coast, or within any tidal water, or on any navigable river of the Province of South Australia :

- II. Whenever any ship, by collision or otherwise, causes the loss of or damage to any other ship on or near the coast, or within any tidal water, or on any navigable river of the said province :
- III. Whenever, by reason of any casualty or accident happening to or on board of any ship on or near such coast, or within any tidal water, or any navigable river in the said province, loss of life or any serious injury to any person ensues :
- IV. Whenever any ship has run aground on or near such coast, or within any tidal water, or on any navigable river of the said province :
- V. Whenever any loss, abandonment, collision, accident, casualty, damage, or grounding as aforesaid happens to any ship outside the limits of the said province, the master whereof arrives in the said province without having (subsequent to such loss, abandonment, collision, accident, casualty, damage, or grounding) been in the United Kingdom or any British possession, and not having previously reported the circumstance to the proper officer or department in the said United Kingdom or British Possessions, the onus of proving which shall be upon the master or owner thereof :

The master or owner shall, within twenty-four hours after the happening of any one of the above events, or as soon thereafter as possible, send to the Board, by letter, signed by such master or owner, a report containing full particulars of such loss, abandonment, accident, casualty, damage, or grounding, and of the probable occasion thereof, stating the name and official number (if any) of the ship, the port to which she belongs, the names of the master and mates and the numbers of their certificates (if any), and, if practicable, the place where she is ; and if such master or owner neglect so to do, he shall, for such offence, incur a penalty not exceeding Fifty Pounds.

234. If the managing owner, or, in the event of there being no managing owner, the agent of any ship, have reason, owing to the non-appearance of such ship, or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board notice, in writing, of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any) and the port to which she belongs ; and if he neglect to do so within a reasonable time he shall incur a penalty not exceeding Fifty Pounds.

Notice to be given of apprehended loss of ship.

235. In every case of collision, in which it is practicable so to do, the master shall, immediately after the occurrence, cause a statement

Collisions to be entered in official log.

*Marine Board and Navigation Act.—1881.***PART IV.**

statement thereof, and of the circumstances under which the same occurred, to be entered in the official log-book (if any), such entry to be signed by the master and also by the mate or one of the crew, and in default shall incur a penalty not exceeding Twenty Pounds.

Inquiries into Shipping Casualties.

Inquiry may be instituted by Board.

236. Whenever any shipping casualty happens on or near the coasts, or within any tidal water, or on any navigable river of the said province, and also whenever the same happens, or is supposed to have happened, outside the said limits, and any evidence can be obtained in the said province as to the circumstances under which the ship which has suffered such shipping casualty proceeded to sea or was last heard of, the Board, or some person appointed for the purpose by the Board, shall make inquiry respecting such shipping casualty, and such person shall, for the purpose, have all the powers and remedies given by this Act to inspectors appointed by the Board.

Investigation before the Court of Marine Inquiry.

237. If it appears to the Board or such person or persons as aforesaid, either upon or without preliminary inquiry as aforesaid, that an investigation into any loss, abandonment, collision, accident, casualty, damage or grounding (in this Act called a shipping casualty) is requisite or expedient, the Board shall refer the same to the Court of Marine Inquiry, who shall thereupon hold an investigation.

Person charged to have opportunity of making a defence.

238. Every investigation into a shipping casualty shall be conducted in such manner that, if a charge is made against any person, that person shall have an opportunity of making a defence. No certificate, whether of competency or service of any master, mate, or engineer, and whether issued by the Board of Trade of the United Kingdom or by the Board, shall be cancelled or suspended unless a copy of the report, or a statement of the case upon which the inquiry or investigation is ordered has been furnished to the owner of the certificate before the commencement of the inquiry or investigation.

Costs of such investigation.

239. The Court of Marine Inquiry may make such order with respect to the costs of any such investigation or any portion thereof as they may deem just, and such costs shall be paid accordingly, and shall be recoverable in a summary manner; and the Board may, if in any case they think fit so to do, pay the expense of any such investigation.

Inquiries relating to missing ships.

240. Whenever a ship has been lost or is supposed to have been lost, and any evidence can be obtained in the province as to the circumstances under which she proceeded to sea or was last heard of, the Board (without prejudice to any other powers) may, if they think fit, cause an inquiry to be made or an investigation to be held, and all the provisions of this Act, so far as the same can be made applicable and the circumstances of the case permit, shall apply to any such inquiry or investigation.

Re-hearing of inquiries and investigations.

241. Where an inquiry or investigation has been held by the Court

*Marine Board and Navigation Act.—1881.***PART IV.**

Court of Marine Inquiry under this Act (other than an inquiry under section 136, sub-section 1), the Board may, in any case, and shall, if new and important evidence which could not be produced at such inquiry or investigation has been discovered, or for any other reason there has, in their opinion, been grounds for suspecting a miscarriage of justice, order that the case be re-heard, either generally or as to any part thereof.

Wreck.

242. The Board shall have the general superintendence of all matters relating to wreck and salvage, and they may from time to time appoint any person to be Receiver of Wreck (in this Act referred to as receiver), and may remove any receiver; and may from time to time establish, alter, or abolish districts for the purpose of this Act, and assign a district to any receiver, and may vary such district from time to time, and may make, and when made revoke, alter, and add to, regulations for the conduct of receivers.

Appointment of receivers.

243. Any ship which shall be sunk, stranded, or run ashore in any port shall be removed by the master or owner within one calendar month, or such extended time as the Board may allow, and in default thereof the Board, after giving such notice as they may deem fit, may remove the same and recover all charges and expenses incurred in such removal as a debt due by the owner or master of such ship.

Sunk or stranded ships to be removed.

244. Whenever any ship or boat is stranded or in distress at any place on the shore of the sea, or of any tidal water, or in any navigable river or lake, within the limits of the province, the receiver of the district within which such place is situate shall, upon being made acquainted with such accident, forthwith proceed to such place, and upon his arrival there he shall take the command of all persons present, and assign such duties to each person and issue such directions as he may think fit, with a view to the preservation of such ship or boat and the lives of the persons belonging thereto and the cargo and tackle thereof; and if any person wilfully disobeys such directions he shall forfeit a sum not exceeding Fifty Pounds; but it shall not be lawful for such receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master, nor to take charge of any ship, cargo, or tackle contrary to the expressed wish of the master or owner of such ship, cargo, or tackle, or of his agent.

Duty of receiver when any ship is stranded or in distress.

245. The receiver may, with a view to such preservation as aforesaid of the ship or boat, persons, cargo, and tackle, do the following things, that is to say—

Powers of receiver in case of accident to any ship or boat.

- I. Summon such number of men as he thinks necessary to assist him :
- II. Require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship, or boats as may be in his power :
- III. Demand

*Marine Board and Navigation Act.—1881.***PART IV.****III. Demand the use of any wagon, cart, or horses that may be near at hand :**

And any person refusing, without reasonable cause, to comply with any summons, requisition, or demand so made as aforesaid shall, for every such refusal, incur a penalty not exceeding One Hundred Pounds.

All articles washed on shore to be delivered to the receiver.

246. All cargo and other articles belonging to any ship or boat that may be washed on shore or otherwise be lost or taken from such ship or boat shall be delivered to the receiver ; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or any person authorised by him to demand the same, shall incur a penalty not exceeding One Hundred Pounds ; and it shall be lawful for such receiver or other person as aforesaid, to take such cargo or article by force from the person so refusing to deliver the same.

Powers of receiver to suppress plunder and disorder by force.

247. Whenever any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder, or obstructs the preservation of such ship, boat, lives, or cargo, as aforesaid, it shall be lawful for the receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder, or obstruction, as aforesaid, with power to command all Her Majesty's subjects to assist him in the use of such force ; and if any person is killed, maimed, or hurt by reason of his resisting the receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such receiver or other person shall be free and fully indemnified as well against the Queen's Majesty, Her heirs and successors, as against all persons so killed, maimed, or hurt.

Certain officers to exercise powers of receiver in his absence.

248. During the absence of the receiver from the place where any such accident as aforesaid occurs, or in places where no receiver has been appointed under this Act, the following officers in succession, each in the absence of the other, in the order in which they are named, that is to say—any Collector or principal officer of Customs, Special Magistrate, Justice, officer or constable of the police force may do all matters and things hereby authorised to be done by the receiver, with this exception, that with respect to any goods or articles belonging to any ship or boat, the delivery up of which to the receiver is hereinbefore required, any officer so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver ; and no person so acting as substitute for any receiver shall be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Power, in case of a ship being in distress, to pass over adjoining lands with carriages.

249. Whenever any such accident, as aforesaid, occurs to any ship or boat, all persons may, for the purpose of rendering assistance to such ship or boat, or saving the lives of the persons on board the same, or the cargo, or tackle thereof, unless there is some public road

*Marine Board and Navigation Act.—1881.*PART IV.

road equally convenient, pass and repass, either with or without carriages or horses, over any adjoining lands, without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any such passing or repassing, or deposit as aforesaid, shall be a charge on the ship, boat, cargo, or articles in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable in the same manner as salvage is hereby made recoverable; and the amount payable in respect thereof, if disputed, shall be determined in the same manner as the amount of salvage is hereby, in case of dispute, directed to be determined.

250. If the owner or occupier of any land over which any person is hereby authorised to pass or repass for any of the purposes hereinbefore mentioned does any of the following things, that is to say—

Penalty on owners and occupiers of land refusing to allow carriages, &c., to pass over their land.

- I. Impedes or hinders any such person from so passing or repassing, with or without carriages, horses, and servants, by locking his gates, refusing, upon request, to open the same, or otherwise, however:
- II. Impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat as hereinbefore mentioned:
- III. Prevents such cargo or other article from remaining so deposited for a reasonable time, until the same can be removed to a safe place of public deposit:

He shall for every such offence incur a penalty not exceeding One Hundred Pounds.

251. Any receiver, or in his absence any Justice of the Peace, shall, as soon as conveniently may be, examine upon oath (which oath they are hereby respectively empowered to administer) any person belonging to any ship which may be or may have been in distress on the coasts of the province, or any other person who may be able to give any account thereof, or of the cargo or stores thereof, as to the following matters, that is to say—

Power of receiver to institute examination with respect to ships in distress.

- I. The name and description of the ship:
- II. The name of the master and of the owners:
- III. The names of the owners of the cargo:
- IV. The ports or places from and to which the ship was bound:
- V. The occasion of the distress of the ship:
- VI. The services rendered:
- VII. Such other matters or circumstances relating to such ship, or to the cargo on board the same, as the receiver or Justice thinks necessary:

And

*Marine Board and Navigation Act.—1881.***PART IV.**

And such receiver or Justice shall take the examination down in writing, and shall send it to the Board; and for the purpose of such examination every such receiver or Justice as aforesaid shall have all the powers given by this Act to inspectors appointed by the Board.

Rules to be observed
by persons finding
wreck.

252. The following rules shall be observed by any person finding or taking possession of wreck within the province, that is to say—

- I. If the person so finding or taking possession of the same is the owner, he shall, as soon as possible, give notice to the receiver of the district within which such wreck is found, stating that he has so found or taken possession of the same; and he shall describe in such notice the marks by which such wreck is distinguished;
- II. If any person, not being the owner, finds or takes possession of any wreck, he shall as soon as possible deliver the same to such receiver as aforesaid:

And any person making default in obeying the provisions of this section shall incur the following penalties, that is to say—

- III. If he is the owner, and makes default in performing the several things the performance of which is hereby imposed on an owner, he shall incur a penalty not exceeding One Hundred Pounds:
- IV. If he is not the owner, and makes default in performing the several things the performance of which is hereby imposed on any person not being an owner, he shall forfeit all claim to salvage; he shall pay to the owner of such wreck, if the same is claimed, but, if the same is unclaimed, then to the receiver, double the value of such wreck (such value to be recovered in the same way as a penalty of like amount); and he shall incur a penalty not exceeding One Hundred Pounds.

Power for receiver to
seize concealed wreck.

253. If any receiver suspects or receives information that any wreck is secreted, or in the possession of some person who is not the owner thereof, or otherwise improperly dealt with, he may apply to any Justice for a warrant, and such Justice shall have power to grant a warrant, by virtue whereof it shall be lawful for the receiver to enter into any house or other place, wherever situate, and also into any ship or boat, and to search for and to seize and detain any such wreck as aforesaid there found; and if any such seizure is made in consequence of information that may have been given by any person to the receiver, the informer shall be entitled by way of salvage to such sum, not exceeding in any case Five Pounds, as the receiver may allow.

254. Every

Marine Board and Navigation Act.—1881.

PART IV.

254. Every receiver shall, within forty-eight hours after taking possession of any wreck, cause to be posted up in the Custom House or Board office of the port nearest to the place where such wreck was found or seized, a description of the same, and of any marks by which it is distinguished.

Notice of wreck to be given by receiver.

255. In cases where any wreck in the custody of any receiver is under the value of Five Pounds, or is of so perishable a nature, or so much damaged that the same cannot, in his opinion, be advantageously kept, or if the value thereof is not sufficient to defray the charge of warehousing, the receiver may sell the same before the expiration of the period hereinafter mentioned, and the money raised by such sale, after defraying the expenses thereof, shall be held by the receiver for the same purposes and subject to the same claims for and to which the article sold would have been held and liable if it had remained unsold.

Goods deemed perishable or of small value may be sold immediately.

256. There shall be paid to all receivers appointed under this Act the expenses properly incurred by them in the performance of their duties, and also such fees as may from time to time be directed by the Board; and the receiver shall have the same lien, and be entitled to the same remedies for the recovery of such expenses and fees, as a salvor has or is entitled to in respect of salvage due to him; but, save as aforesaid, no receiver appointed under this Act shall, as such, be entitled to any remuneration whatsoever.

Payments to be made to receiver.

257. Whenever any dispute arises in any part of the province as to the amount payable to any receiver in respect of expenses or fees, such dispute shall be determined by the Board, whose decision shall be final.

Disputes as to sums payable to receiver to be determined by Board.

258. Whenever any articles belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of the province, or belonging to or forming part of the cargo thereof, are found on or near such coasts, or are brought into any port in the province, the consul of the country to which such ship, or, in the case of cargo, to which the owners of such cargo, may have belonged, or any consular officer of such country authorised in that behalf, shall, in the absence of the owner of such ship or articles, and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of such articles.

In case of wreck of foreign ships, consul to be deemed agent of owner.

259. All wreck, being foreign goods brought or coming into the province, shall be subject to the same duties as if the same were imported into the province, and if any question arises as to the origin of such goods, they shall be deemed to be the produce of such country as the Board may upon investigation determine.

Foreign goods found derelict to be subject to the same duties as on importation.

260. The Board may permit all goods, wares, and merchandise saved from any ship stranded or wrecked on its inward voyage to be forwarded to the port of its original destination, and all goods

Goods saved from ships wrecked to be forwarded to the port of their original destination.

*Marine Board and Navigation Act.—1881.***PART IV.**

goods, wares, and merchandise saved from any ship stranded or wrecked on its outward voyage to be returned to the port at which the same were shipped; but the Board may take security for the due protection of the revenue in respect of such goods, wares, and merchandise.

Salvage.

261. In the following cases, that is to say—

Salvage in respect
services rendered.

Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea or tidal water, or in any navigable river, situate within the limits of the province, and services are rendered by any person—

- i. In assisting such ship or boat:
- ii. In saving the lives of the persons belonging to such ship or boat:
- iii. In saving the cargo or tackle of such ship or boat, or any portion thereof:

And whenever any wreck is saved by any person other than a receiver within the province—

There shall be payable by the owners of such ship or boat, cargo, tackle, or wreck, to the person by whom such services, or any of them, are rendered, or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses properly incurred by him in the performance of such services, or the saving of such wreck; the amount of such salvage and expenses (which expenses are hereinafter included under the term salvage) to be determined, in case of dispute, in manner hereinafter mentioned.

Salvage for life may
be paid by Board.

262. Salvage in respect of the preservation of the life or lives of any person or persons belonging to any such ship or boat as aforesaid shall be payable by the owners of the ship or boat in priority to all their claims for salvage; and in cases where such ship or boat is destroyed, or where the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage due in respect of any life or lives, the Board may, in their discretion, award to the salvors of such life or lives, out of any moneys voted by the Parliament for the purpose, such sum or sums as they deem fit, in whole or part satisfaction of any amount of salvage so left unpaid in respect of such life or lives.

Disputes as to salvage
how to be settled.

263. In disputes with respect to salvage between the owners of any such ship, boat, cargo, tackle, or wreck as aforesaid, and the salvors, as to the amount of salvage, and the parties to the dispute cannot agree as to the settlement thereof by arbitration or otherwise, then, if the sum claimed does not exceed Three Hundred Pounds, such dispute shall be referred to the arbitration of a Special Magistrate resident at or near the place where such wreck is found, or, in case of services rendered to any ship or boat, or to the persons, cargo, or tackle belonging thereto, resident at or near the place where

*Marine Board and Navigation Act.—1881.***PART IV.**

where such ship or boat is lying, or at or near the first port or place in the province into which such ship or boat is brought after the occurrence of the accident by reason whereof the claim to salvage arises, or by two Justices to be nominated by such Magistrate; but if the sum claimed exceeds Three Hundred Pounds, such dispute may, with the consent of the parties, be referred to the arbitration of such Magistrate or Justices as aforesaid, but if they do not consent, shall be decided by the Supreme Court, or by the Court of Vice-Admiralty of the province, subject to this proviso, that if the claimants in such dispute do not recover in such Court a greater sum than Three Hundred Pounds, they shall not, unless the Court certifies that the case is a fit one to be tried in a superior Court, recover any cost, charges, or expenses incurred by them in the prosecution of their claim; and every dispute with respect to salvage may be heard and adjudicated upon on the application either of the salvor or of the owner of the property salvaged, or of their respective agents.

264. Whenever any salvage question arises, the receiver for the district may, on application from either of the parties, appoint a valuer to value the property in respect to which the salvage claim is made, and shall, when the valuation has been returned to him, give a copy of the valuation to both parties; and any copy of such valuation, purporting to be signed by the valuer and to be attested by the receiver, shall be received in evidence in any subsequent proceeding; and there shall be paid in respect of such valuation, by the party applying for the same, such fee as the Board may direct.

Receiver may appoint a valuer in salvage cases.

265. Whenever in pursuance of this Act any dispute as to salvage is referred to the arbitration of a Special Magistrate or two Justices, he or they may either themselves determine the same, with power to call to their or his assistance any person conversant with maritime affairs as assessor, or they may, if a difference of opinion arises between them, or without such difference, the said Magistrate or Justices may, if he or they think fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute; and such Magistrate, Justices, or their umpire shall make an award as to the amount of salvage payable, within the following times, that is to say the said Magistrate or Justices, within forty-eight hours after such dispute has been referred to him or them, and the said umpire within forty-eight hours of his appointment, with power, nevertheless, for such Magistrate, Justices, or umpire, by writing, under his or their hand or hands, to extend the time within which he and they are hereby respectively directed to make his or their award.

Manner in which Justices may decide disputes.

266. There shall be paid to every assessor and umpire who may be so appointed as aforesaid, in respect of his services, such sum not exceeding Five Pounds as the Board may from time to time direct; and all the costs of such arbitration, including any such payments as aforesaid, shall be paid by the parties to the dispute, in such

Costs of arbitration.

*Marine Board and Navigation Act.—1881.***PART IV.**

such manner and in such shares and proportions as the said Magistrate or Justices or the said umpire may direct by his or their award.

Justices, &c., may call for documents and administer oaths.

267. The said Magistrate or Justices or their umpire may call for the production of any documents in the possession or power of either party, which he or they may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Appeal to superior Courts.

268. If any person is aggrieved by the award made by such Magistrate, Justices, or umpire as aforesaid, he may appeal to the Supreme Court or to the Court of Vice-Admiralty of the province; but no such appeal shall be allowed unless the sum in dispute exceeds Fifty Pounds, nor unless within ten days after the date of the award the appellant gives notice to the Magistrate or Justices to whom the matter was referred of his intention to appeal, nor unless the appellant proceeds to take out a monition, or to take such other proceeding as according to the practice of the Court to which the appeal is made is necessary for the institution of an appeal, within twenty days from the date of the award.

Justices, &c., to transmit copy of proceedings and certificate of value to Court of Appeal.

269. Whenever any appeal is made in manner hereinbefore provided, the Magistrate or Justices shall transmit to the proper officer of the Court to which the appeal is made a copy, certified under his or their hands to be a true copy of the proceedings had before such Magistrate or Justices or their umpire, if any, and of the award so made by him or them, accompanied with his or their certificate in writing of the gross value of the article respecting which salvage is claimed; and such copy and certificate shall be admitted in the Court hearing the appeal as evidence in the cause.

Payment of salvage, to whom to be made in case of dispute as to apportionment.

270. Whenever the aggregate amount of salvage payable in respect of salvage services rendered has been finally ascertained, either by agreement or by the award of such Magistrate or Justices or his or their umpire, but a dispute arises as to the apportionment thereof amongst several claimants, then, if the amount does not exceed One Thousand Pounds, it shall be lawful for the party liable to pay the amount so due to apply to the receiver of the district for liberty to pay the amount so ascertained to him; and he shall, if he thinks fit, receive the same accordingly, and grant a certificate under his hand, stating the fact of such payment and the services in respect of which it is made; and such certificate shall be a full discharge and indemnity to the person or persons to whom it is given, and to their ship, boats, cargo, tackle, and effects, against the claims of all persons whomsoever in respect of the services therein mentioned; but if the amount exceeds one thousand pounds, it shall be apportioned in manner hereinafter mentioned.

Apportionment of salvage.

271. Upon the receipt of any such amount as aforesaid the receiver shall, with all convenient speed, proceed to distribute the same among the several persons entitled thereto, upon such evidence and

*Marine Board and Navigation Act.—1881.***PART IV.**

and in such shares and proportions as he thinks fit, with power to retain any moneys that may appear to him to be payable to any absent parties; but any distribution made in pursuance of this section shall be final and conclusive against the rights of all persons claiming to be entitled to any portion of the moneys so distributed.

272. Whenever any salvage is due to any person under this Act, the receiver shall act as follows, that is to say— Manner of enforcing payment of salvage.

- i. If the same is due in respect of services rendered in assisting any ship or boat, or in saving the lives of persons belonging to the same, or the cargo or tackle thereof, he shall detain such ship or boat and the cargo and tackle belonging thereto until payment is made, or process has been issued by some competent Court for the detention of such ship, boat, cargo, or tackle :
- ii. If the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions hereinafter contained, he shall detain such wreck until payment is made or process has been issued in manner aforesaid ; but it shall be lawful for the receiver, if at any time previously to the issue of such process security is given to his satisfaction for the amount of salvage due, to release from his custody any ship, boat, cargo, tackle, or wreck so detained by him as aforesaid ; and in cases where the claim for salvage exceeds One Thousand Pounds, it shall be lawful for the Supreme Court, or for any Court having Admiralty jurisdiction, to determine any question that may arise concerning the amount of the security to be given or the sufficiency of the sureties ; and in all cases where bond or other security is given to the receiver for an amount exceeding One Thousand Pounds it shall be lawful for the salvor, or for the owner of the property salvaged, or their respective agents, to institute proceedings in such last-mentioned Courts for the purpose of having the questions arising between them adjudicated upon, and the said Courts may enforce payment of the said bond or other security in the same manner as if bail had been given in the said Courts.

273. Whenever any ship, boat, cargo, tackle, or wreck is detained by any receiver for non-payment of any sums so due as aforesaid, and the parties liable to pay the same are aware of such detention, then, in the following cases, that is to say— Power of receiver to sell property salvaged in case of non-payment.

- i. In cases where the amount is not disputed, and payment thereof is not made within twenty days after the same has become due :
- ii. In cases where the amount is disputed, but no appeal lies from the first tribunal to which the dispute is referred, and payment thereof is not made within twenty days after the decision of such first tribunal :

iii. In

*Marine Board and Navigation Act.—1881.*PART IV.

III. In cases where the amount is disputed, and an appeal lies from the decision of the first tribunal to some other tribunal, and payment thereof is not made within such twenty days as last aforesaid, or such monition as hereinbefore mentioned is not taken out within such twenty days, or such other proceedings as are, according to the practice of such other tribunal, necessary for the prosecution of an appeal are not instituted within such twenty days:

The receiver may forthwith sell such ship, boat, cargo, tackle, or wreck, or a sufficient part thereof, and out of the proceeds of the sale, after payment of all expenses thereof, defray all sums of money due in respect of expenses, fees, and salvage, paying the surplus, if any, to the owners of the property sold or other the parties entitled to receive the same.

Subject to payment of expenses, fees, and salvage, owner entitled to wreck.

274. Subject to the payment of such expenses, fees, and salvage as aforesaid, the owner of any wreck who establishes his claim thereto to the satisfaction of the receiver within one year from the date at which such wreck has come into the possession of the receiver, shall be entitled to have the same delivered up to him.

Unclaimed Wreck.

Wreck unclaimed within a year may be sold.

275. In the event of no owner establishing a claim to wreck found in any place in the province before the expiration of a year from the date at which the same has come into the possession of the receiver, then such wreck, if unsold, shall be sold by such persons and in such manner as the Board may direct; the proceeds thereof, after payment of expenses, costs, fees, and salvage, shall be paid to the Treasurer, and form part of the revenue of the province.

Delivery of wreck by receiver not to prejudice title.

276. Upon delivery of wreck or of the proceeds of wreck by any receiver to any person, in pursuance of the provisions of this Act, such receiver shall be discharged from all liability in respect thereof, but such delivery shall not be deemed to prejudice or affect any question concerning the right or title to the said wreck which may be raised by third parties.

Penalty for plundering in cases of shipwreck, for obstructing the saving of shipwrecked property, and for secreting the same.

277. Every person who does any of the following acts, that is to say—

- I. Wrongfully carries away or removes any part of any ship or boat stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or in any navigable river in the province, or any part of the cargo or tackle thereof, or any wreck; or
- II. Endeavors in any way to impede or hinder the saving of such ship, boat, cargo, tackle, or wreck; or

III. Secretes

Marine Board and Navigation Act.—1881.

III. Secretes any wreck, or obliterates or defaces any marks thereon :

PART IV.

Shall, in addition to any other penalty or punishment he may be subject to under this or any other Act or law, for each such offence incur a penalty not exceeding Fifty Pounds ; and every person not being a receiver or a person hereinbefore authorised to take the command in cases of ships being stranded or in distress, or not acting under the orders of such receiver or person, who, without the leave of the master, endeavors to board any such ship or boat as aforesaid, shall, for each offence, incur a penalty not exceeding Fifty Pounds ; and it shall be lawful for the master of such ship or boat to repel by force any such person so attempting to board the same.

278. If any person takes into any place out of the province any ship or boat stranded, derelict, or otherwise in distress on or near the shore of the sea, or of any tidal water, or in any navigable river, situate within the limits of the province, or any part of the cargo or tackle thereof, or anything belonging thereto, or any wreck found within such limits as aforesaid, and there sells the same, he shall be guilty of felony, and be subject to penal servitude for a term not exceeding four years.

Penalty for selling wreck in foreign ports.

Salvage (General).

279. Whenever services for which salvage is claimed are rendered either by the master or crew or part of the crew of any ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salvaged, upon the master or other person in charge thereof entering into a written agreement, attested by two witnesses, to abide the decision of any Supreme Court or of the Court of Vice-Admiralty of the province, and thereby giving security in that behalf to such amount as may be agreed on by the parties to the said agreement, such agreement shall bind the said ship and the said cargo and the freight payable therefor respectively, and the respective owners of the said ship, freight, and cargo for the time being, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the said ship, cargo, and freight respectively, to the extent of the security so given as aforesaid, and may be adjudicated upon and enforced in the Supreme Court or in the Court of Vice-Admiralty of the province ; and upon such agreement being made, the salvor and the master, or other person in charge as aforesaid, shall respectively make the following statements, so far as the same are applicable, that is to say—

Voluntary agreement may be made.

- I. The place, condition, and circumstances in which the said ship, cargo, or property was at the time when the services were rendered for which salvage is claimed :
- II. The nature and duration of the services rendered.

The

*Marine Board and Navigation Act.—1881.***PART IV.**

The salvor shall add to his statement—

III. The proportion of the value of the said ship, cargo, and property, and of the freight, which he claims for salvage, or the value at which he estimates the said ship, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same :

IV. Any other circumstances he thinks relevant to the said claim :

And the said master or other person in charge of the said ship, cargo, or property shall add to his statement—

V. A copy of the certificate of registry of the said ship, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate ; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale, if any, affecting the same, and the names and places of business of the owners and incumbrancers :

VI. The name and place of business or residence of the freighter (if any) of the said ship, and the freight to be paid for the voyage she is then on :

VII. A general account of the quantity and nature of the cargo at the time the salvage services were rendered :

VIII. The name and place of business or residence of the owner of such cargo, and of the consignee thereof :

IX. The values at which the said master estimates the said ship, cargo, and property, and the freight respectively, or, if he thinks fit, in lieu of such estimated value of the cargo, a copy of the ship's manifest :

X. The amounts which the master thinks should be paid as salvage for the services rendered :

XI. An accurate list of the property saved, in cases where the ship is not saved :

XII. An account of the proceeds of the sale of the said ship, cargo, or property, in cases where the same or any of them are sold at such port as aforesaid :

XIII. The number, capacities, and condition of the crew of the said ship at the time the said services were rendered :

XIV. Any other circumstances he thinks relevant to the matter in question :

And the salvor shall, as soon as practicable, transmit the said agreement and the said statements to the Court in which the said agreement is to be adjudicated upon.

280. Whenever

Marine Board and Navigation Act.—1881.

280. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the province has been finally ascertained, and exceeds Three Hundred Pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever such amount may be, then if any delay or dispute arises as to the apportionment thereof, the Supreme Court or the Court of Vice-Admiralty of the province may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just; and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into Court, to be there dealt with as the Court may direct, and may for the purposes aforesaid issue such monitions or other processes as it thinks fit.

PART IV.

Powers for Courts having Admiralty jurisdiction to apportion salvage.

PART V.**PILOTAGE.****PART V.**

281. The Marine Board shall be the department to do all or any of the following things within the limits of their jurisdiction, that is to say—

- i. To determine the qualifications to be required from persons applying to be licensed as pilots, whether in respect of their age, skill, time of service, character, or otherwise : *To determine qualifications of pilots.*
- ii. To make regulations :
- iii. As to the approval and licensing of pilot boats and ships : *To make regulations as to pilot boats.*
- iv. For the government of licensed pilots, and for insuring their good conduct and their constant attendance to an effectual performance of their duty, either at sea or on shore : *To make regulations for the government of pilots.*
- v. To fix the terms and conditions of granting licences to pilots and apprentices, and of granting such pilotage exemption certificates as hereinafter mentioned to masters, and to make regulations for punishing any breach of such regulations as aforesaid committed by such pilots or apprentices, or by such masters, by the withdrawal or suspension of their licences or certificates, as the case may be, or by the infliction of penalties, to be recoverable in a summary manner, so that no such penalty be made to exceed the sum of Twenty Pounds; and so that every such penalty be capable of reduction, at the discretion of the Justices by whom the same is inflicted : *To make regulations as to licences and certificates.*
- vi. To extend the provisions of the Fifth Part of this Act, and to make the employment of a qualified pilot compulsory by masters of all such ships who are by this Act required to employ such pilots at Port Adelaide, to any port or ports, or any part of such port or ports in the said province : *To make pilotage compulsory at any port or ports other than Port Adelaide.*

vii. To

*Marine Board and Navigation Act.—1881.***PART V.**

To alter and reduce
rate of pilotage.

VII. To fix the rates and prices, or other remuneration to be demanded and received for the time being, by licensed pilots:

And all regulations made in exercise of the powers hereby given shall be subject to the approval of the Governor.

Masters of foreign-
going and intercolonial
ships of sixty tons
register and upwards,
and masters of coast-
trade ships of one
hundred tons register
and upwards, to
employ a pilot at
Port Adelaide.

282. If the master of any foreign-going or intercolonial ship of sixty tons register or any greater registered tonnage, or the master of any coast-trade ship of one hundred tons register or any greater registered tonnage, arriving at or off the Port of Adelaide, in the said province, and intending to enter that port or any part of the creek of Port Adelaide to the northward of the Port Adelaide lighthouse—

- i. Shall not receive on board such ship the first pilot who shall offer himself and demand to conduct such ship into such port, or shall not forthwith on demand, and upon the pilot so offering himself (producing, if required, his licence as such pilot), give such ship in charge of such pilot: or
- ii. Shall proceed to sea, or quit his station or anchorage inside the outer bar of the creek of Port Adelaide, without receiving on board a qualified pilot to conduct the said ship to sea:

Every such master, unless he has a pilotage exemption certificate enabling him to pilot the said ship within such limits as aforesaid, shall, over and above the amount which would have been payable for pilotage if such pilot's services had actually been engaged, forfeit and pay a penalty of not less than Five Pounds nor more than Thirty Pounds, to be recovered in a summary manner.

Masters of ships when
within ten miles
to display signal and
facilitate pilot getting
on board.

283. Every master of any such ship when within ten miles of the Port of Adelaide, and intending to enter that port or creek as aforesaid, shall (unless he has an exemption certificate as aforesaid), until a qualified pilot has come on board, use or display the usual signal for a pilot; and if any qualified pilot is within hail, or is approaching and within a mile of such ship, and has the proper distinguishing flag flying, or uses the proper distinguishing lights in his boat, such master shall, by heaving-to in proper time, or shortening sail, or by any practicable means consistent with the safety of his ship, facilitate such pilot getting on board, and in default thereof such master shall for each offence forfeit and pay a penalty not exceeding Five Pounds.

Signals for pilots.

284. If the master of any ship requires the services of a pilot, the signals to be used and displayed shall be the following, that is to say—

In the daytime—

- i. To be hoisted at the fore, the jack or other national color usually worn by merchant ships, having round it a white border, one-fifth of the breadth of the flag; or,
- ii. The

*Marine Board and Navigation Act.—1881.***PART V.**

- II. The international code pilotage signal indicated by P. T.

At night—

- I. The pyrotechnic light, commonly known as a blue light, every fifteen minutes: or,
- II. A bright white light, flashed or shown at short or frequent intervals just above the bulwarks, for about a minute at a time:

And any master of a ship who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, shall incur a penalty not exceeding Twenty Pounds.

285. The Board may, from time to time, repeal or alter the rules as to signals contained in the Fifth Part of this Act, or may make new rules in addition thereto, or in substitution therefor; and any alterations in or additions to such rules shall be published in the *Government Gazette*, and shall be of the same force as the rules contained herein.

Power to alter rules as to signals.

286. All boats and ships regularly employed in such pilotage service shall be approved and licensed by the Board.

Pilot boats how to be provided.

287. Every pilot boat or ship shall be distinguished by the following characteristics, that is to say—

Characteristics of pilot boats.

- I. A black color, painted or tarred, outside, with the exception of such names and numbers as are hereinafter mentioned, or such other distinguishing color or colors as the Board may direct:
- II. On her stern the name of the owner thereof and the port to which she belongs, painted in white letters at least one inch broad and three inches long, and on each bow the number of the licence of such boat or ship:
- III. When afloat in the daytime, a flag at the mast-head, or on a sprit or staff, or in some other equally conspicuous situation, such flag to be of large dimensions compared with the size of the boat or ship carrying the same, and to be of two colors, the upper horizontal half white, and the lower horizontal half red; and, at night, a white light at the mast-head visible all round the horizon, and a flare-up light exhibited every fifteen minutes.

288. And it shall be the duty of the master or owner of such pilot boat or ship to attend to the following particulars:—Firstly, that the boat or ship possesses all the above characteristics; secondly, that the aforesaid flag is kept clean and distinct, so as to be easily discerned

Duties of master of pilot boat.

*Marine Board and Navigation Act.—1881.***PART V.**

discerned at a proper distance; and lastly, that the names and numbers before mentioned are not at any time concealed; and if default is made in any of the above particulars, he shall incur a penalty not exceeding Twenty Pounds for each default.

Qualified pilot to display flag though not pilot boat.

289. Whenever any qualified pilot is carried off in a boat or ship, not in the pilotage service, he shall exhibit a flag of the above description in order to show that such boat or ship has a qualified pilot on board; and if he fails to do so, without reasonable cause, he shall incur a penalty not exceeding Fifty Pounds.

Penalty on ordinary boat displaying pilot flag.

290. If any boat or ship not having a qualified pilot on board, displays a flag of the above-mentioned description, there shall be incurred for every such offence a penalty not exceeding Fifty Pounds, to be recovered from the owner or from the master of such boat or ship.

Registry of pilot's licence

291. Every qualified pilot, on his appointment, shall receive a licence, containing his name and usual place of abode, together with a description of his person, and a specification of the limits within which he is qualified to act; and it shall be the duty of the Collector of Customs at the place at or nearest to which any qualified pilot may reside, upon his request, to register his licence, and no qualified pilot shall be entitled to act as such until his licence is so registered; and any qualified pilot acting beyond the limits for which he is qualified by his licence, shall be considered as an unqualified pilot.

Copies of regulations to be furnished to qualified pilot, and to be produced by him.

292. Every qualified pilot shall, upon receiving his licence, be furnished with a copy of such part of this Act as relates to pilotage, together with a copy of the rates, by-laws, and regulations, and he shall produce such copies to the master of any ship or other person employing him, when required to do so, under a penalty, in case of default, not exceeding Five Pounds.

Qualified pilot to produce licence to employer.

293. Every qualified pilot, while acting in that capacity, shall be provided with his licence, and produce the same to every person by whom he is employed, or to whom he tenders his services as pilot; and if he refuses to do so at the request of such person, he shall incur for each offence a penalty not exceeding Ten Pounds, and shall be subject to suspension or dismissal by the Board.

Licences to be delivered up when required, and returned on death.

294. Every qualified pilot, when required by the Board, shall produce or deliver up his licence; and on the death of any qualified pilot, the person into whose hands his licence happens to fall, shall, without delay, transmit the same to the Board; and any pilot or person failing to comply with the provisions of this section, shall incur a penalty not exceeding Ten Pounds.

Any person acting without licence liable to penalty.

295. Any person not being duly licensed, or lawfully exempted from pilotage as master of a ship by the Board, found acting as a pilot

Marine Board and Navigation Act.—1881.

pilot for any ship either entering or navigating in, or leaving Port Adelaide or any port of the said province to which the provisions of the Fifth Part of this Act may have been extended by the Board, shall be liable to a penalty of not less than Five Pounds, nor exceeding Fifty Pounds.

PART V.

296. If any boat or ship, having a qualified pilot on board, leads any ship which has not a qualified pilot on board, when such last-mentioned ship cannot, from particular circumstances, be boarded, the pilot so leading such last-mentioned ship shall be entitled to the full pilotage for the distance run, as if he had actually been on board and had charge of such ship.

Qualified pilot unable to board when entitled to pilotage.

297. No qualified pilot, except under circumstances of unavoidable necessity, shall, without his consent be taken to sea, or beyond the limits for which he is licensed, in any ship whatever; and every pilot so taken, under circumstances of unavoidable necessity or without his consent, shall be entitled, over and above his pilotage, to the sum of Ten Shillings and Sixpence a day, to be computed from and inclusive of the day on which such ship passes the limit to which he was engaged to pilot her up to, and inclusive of the day of his being returned in the said ship to the place where he was taken on board, or up to and inclusive of such day as will allow him, if discharged from the ship, sufficient time to return thereto; and in such last-mentioned case, he shall be entitled to his reasonable travelling expenses.

Allowance to qualified pilot when taken out of his limits.

298. When the master of any outward-bound ship, who shall have applied for or engaged the services of a pilot, shall afterwards find that he does not require the services of such pilot on the day on which such pilot shall have been first appointed to attend, and shall notify the same to the pilot immediately on his arrival to take charge of the said ship, no payment shall be made in respect of such first attendance; but if, after any renewed application for a pilot, such master shall again find that he is not prepared for sea, such master, owner, or agent of such ship shall pay or secure to be paid to the pilot, who may attend in consequence of any such renewed application, the sum of Ten Shillings for each day that such pilot shall be so detained, or for every such attendance, although such pilot so attending shall quit the said ship by reason of his services on that day being dispensed with by the master at the time of such attendance; and no pilot shall be bound to take such ship to sea until such payment shall have been made or secured to the satisfaction of the pilot entitled to the same.

Services of pilot not required, after having been demanded, to be paid for.

299. Any qualified pilot demanding any rate, in respect of pilotage services, greater than the rate for the time being demandable by law, shall for each offence incur a penalty not exceeding Ten Pounds.

Penalty on qualified pilot demanding improper rates.

300. If

*Marine Board and Navigation Act.—1881.***PART V.**

Penalty on making false declaration as to draught or tonnage of ship, or falsifying marks.

300. If any master, on being requested by any qualified pilot, having charge of his ship to declare her draught of water or tonnage refuses to do so, or himself makes, or is privy to any other person making, a false declaration to such pilot as to such draught or tonnage aforesaid, he shall incur a penalty for every such offence not exceeding double the amount of pilotage which would have been payable to the pilot making such request; and if any master or other person interested in a ship makes, or is privy to any other person making, any fraudulent alteration in the marks on the stern-post or stem of such ship, denoting her draught of water, the offender shall incur a penalty not exceeding Five Hundred Pounds.

Power of qualified pilot to supersede unqualified pilot.

301. A qualified pilot may supersede an unqualified pilot; but it shall be lawful for the master to pay to such unqualified pilot a proportionate sum for his services, and to deduct the same from the charge of the qualified pilot; and, in case of dispute, the Board, by whom the qualified pilot is licensed, shall determine the proportionate sums to which each party is entitled.

Penalty on unqualified persons acting as pilots.

302. An unqualified pilot assuming or continuing in the charge of any ship after a qualified pilot has offered to take charge of her, or using a licence which he is not entitled to use, for the purpose of making himself appear to be a qualified pilot, shall, for each offence, incur a penalty not exceeding Fifty Pounds.

Occasions on which persons may act as pilots.

303. An unqualified pilot may, without subjecting himself or his employer to any penalty, take charge of a ship as pilot under the following circumstances, that is to say—

- I. When no qualified pilot has offered to take charge of such ship, or made a signal for that purpose: or,
- II. When a ship is in distress, or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time: or,
- III. For the purpose of changing the moorings of any ship in port, or of taking her into or out of any dock, in cases where such act can be done by an unqualified pilot without infringing the regulations of the port.

Liability for and recovery of pilotage dues.

304. The following persons shall be liable to pay pilotage dues for any ship for which the services of a qualified pilot are obtained, that is to say—The owner or master, or such consignees or agents thereof as have paid, or made themselves liable to pay, any other charge on account of such ship, in the port of her arrival or discharge, as to pilotage inwards, and in the port from which she clears out as to pilotage outwards; and in default of payment, such pilotage dues may be recovered in the same manner as penalties of the like amount may be recovered by virtue of this Act; but such recovery shall not take place until a previous demand thereof has been made in writing, and the dues so demanded have remained unpaid for three days after the time of such demand being made.

305. Every

Marine Board and Navigation Act.—1881.

PART V.

Power of consignees
to retain pilotage dues
paid by them.

305. Every consignee and agent, not being the owner or master, hereby made liable for the payment of pilotage dues, in respect of any ship, may, out of any moneys in his hand, received on account of such ship, or belonging to the owner thereof, retain the amount of all dues so paid by him, together with any reasonable expenses he may have incurred by reason of such payment or liability.

306. If any qualified pilot commits any of the following offences, that is to say—

Of the offences by
pilots.

- I. Keeps himself, or is interested in keeping by any agent, servant, or other person, any public-house, or place of public entertainment, or sells, or is interested in selling, any article liable to duty:
- II. Commits any fraud, or other offence against the Revenues of Customs or Excise, or the laws relating thereto:
- III. Is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, furniture, cargoes, crews, or passengers, or to persons in distress at sea, or by shipwreck, or to their moneys, goods, or chattels:
- IV. Lends his licence:
- V. Acts as a pilot while suspended:
- VI. Acts as pilot while in a state of intoxication:
- VII. Employs, or causes to be employed, on board any ship of which he has the charge, any boat, anchor, cable, or other store, matter, or thing, beyond what is necessary for the service of such ship, with intent to enhance the expenses of pilotage for his own gain, or for the gain of any other person:
- VIII. Refuses or wilfully delays, when not prevented by illness or other reasonable cause, to take charge of any ship within the limits of his licence upon the signal for a pilot being made by such ship, or upon being required to do so by the master, owner, agent, or consignee thereof, or by any officer of the Board:
- IX. Unnecessarily cuts or slips, or causes to be cut or slipped, any cable belonging to any ship:
- X. Refuses, on the request of the master, to conduct the ship of which he has the charge into any port or place into which he is qualified to conduct the same, except on reasonable ground of danger to the ship:
- XI. Quits the ship of which he has the charge, without the consent of the master, before the service for which he was hired has been performed:

He shall, for each such offence, in addition to any liability for damages at the suit of the party aggrieved, incur a penalty not exceeding

*Marine Board and Navigation Act.—1881.***PART V.**

exceeding One Hundred Pounds, and be liable to suspension or dismissal by the Board; and every person who procures, abets, or connives at the commission of any such offence, shall likewise, in addition to any such liability for damages as aforesaid, incur a penalty not exceeding One Hundred Pounds, and, if a qualified pilot, shall be liable to suspension or dismissal by the Board.

Penalty on pilot endangering ship, life, or limb.

307. If any qualified pilot, when in charge of any ship, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, either—

- i. Does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person on board such ship: or,
- ii. Refuses or omits to do any lawful act, proper and requisite to be done by him, for preserving such ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from danger to life or limb, he shall, for each such offence, be deemed guilty of a misdemeanor, and if a qualified pilot, also be liable to suspension or dismissal by the Board.

Penalty on person in charge of ship doing wilful injury.

308. If any person by wilful misrepresentation of circumstances upon which the safety of a ship may depend, obtains or endeavors to obtain the charge of such ship, such person, and every other person procuring, abetting, or conniving at the commission of such offence, shall, in addition to any liability for damages, at the suit of the party aggrieved, incur a penalty not exceeding One Hundred Pounds; and, if the offender is a qualified pilot, he shall, also, be liable to suspension or dismissal by the Board.

Board may revoke or suspend the licence of any pilot.

309. The Board shall have power to revoke or suspend the licence of any qualified pilot licensed or appointed by them in such manner and at such time as they think fit.

Settlement of difference as to draught or tonnage of ship.

310. Whenever any difference arises between the master and the qualified pilot of any ship trading to or from the Port of Adelaide, or to or from any other port or ports in the said province, as to her draught of water or tonnage, the Board shall, upon application by either party made in case of a ship inward bound, within twelve hours after her arrival, or at some time before she begins to discharge her cargo; and, in the case of a ship outward bound, before she quits her moorings, anchorage, or wharf, appoint some proper officer, who shall measure the ship and settle the difference accordingly; and there shall be paid to the officer measuring such ship by the party against whom he decides, such sum as the Board may direct.

Limitation of liability of owner where pilotage is compulsory.

311. No owner or master of any ship shall be answerable to any person whatever for any loss or damage occasioned by the fault or incapacity

Marine Board and Navigation Act.—1881.

incapacity of any qualified pilot, acting in charge of such ship, within the limits where the employment of such pilot is compulsory by law.

PART V.

Pilotage Exemption.

312. The master of any coast-trade ship of or above one hundred tons registered tonnage, or of any intercolonial ship of or above sixty tons registered tonnage registered in South Australia or either of the colonies of Victoria, New South Wales, Queensland, Western Australia, Tasmania, or New Zealand, may be granted a certificate of exemption from pilotage at Port Adelaide or any other port in the said province to which the provisions of the Fifth Part of this Act may have been extended by the Board, on passing an examination before the Board, or some person appointed by the Board, proving that he is competent to navigate his ship in and out of Port Adelaide or other port of the said province as aforesaid; and for such certificate (which said certificate shall be issued under such regulations as may be made by the Board, and shall not be transferable) a payment shall be made by such master to the Board of a sum of Five Pounds sterling, or such other amount as the Board may direct.

Certificates of exemption to be granted to masters of ships registered in Australia and New Zealand.

313. The master of every ship, having a pilotage exemption certificate from the Board, when within a distance of five miles from any pilot station or port, shall hoist at the main of such ship a white flag of not less than two yards square, and shall keep such flag flying until the arrival of such ship in the port; and any master of any ship having a pilotage exemption certificate from the said Board, not having such flag flying as aforesaid, and not having a pilot on board such ship in charge, shall, on conviction for every such offence, forfeit and pay a penalty of not less than Two Pounds nor more than Five Pounds in addition to an amount equal to the amount of pilotage which would have been payable if a pilot had actually been engaged.

Master having certificate of exemption to hoist white flag

314. If at any time it appears to the Board that any master of a ship to whom a pilotage exemption certificate has been granted by such Board, has been guilty of misconduct, or of conduct unfitting him to hold such certificate, or has shown himself incompetent to pilot his ship, such Board may thereupon suspend or cancel his said certificate; and, if such Board shall think fit, may at any time re-issue such certificate.

Power to suspend, cancel, and re-issue certificate.

PART VI.

PART VI.

LIGHTHOUSES, BUOYS, AND BEACONS.

315. Subject to the provisions of this Act, the control, superintendence, and management of all lighthouses, buoys, beacons, and other sea marks shall be vested in the Board, who shall have power to do the following things, that is to say—

Management of lighthouses, buoys, and beacons to be vested in Board.

1. To

PART VI.

- I. To fix the site and determine the nature of any new light-houses and the order of the lights thereof, with all requisite works, roads, and appurtenances, and to cause any existing lighthouses to be altered or removed:
- II. To erect or place any new buoys and beacons, or alter or remove any existing buoys and beacons:
- III. To take and purchase any land which may be necessary for the above purposes, or for the maintenance of the works or the residence of the lightkeepers:
- IV. To vary the character of any lighthouse or the mode of exhibiting lights therein:
- V. To exchange any land set apart for lighthouse purposes for other land which may be deemed to be more suitable for such purposes.

Board may fix
lighthouse or
mooring dues.

316. It shall be lawful for the Board, with the consent of the Governor, to fix the various rates of lighthouse or mooring dues, which shall be payable at any port or ports within the province in respect of all ships arriving at and of all ships leaving such ports (except ships by this Act specially exempted), and in like manner from time to time to vary, alter, or abolish such dues.

Liability to and
recovery of light and
mooring dues.

317. The following persons shall be liable to pay lighthouse or mooring dues for any ship in respect of which such dues are payable, that is to say—the owner or master or such consignees or agents thereof as have paid or made themselves liable to pay any other charge on account of such ship in the port of her arrival or discharge; and in default of payment, such dues may be recovered in the same manner as penalties may be recovered under this Act.

Dues to be paid to
Board.

318. All lighthouse or mooring dues leviable under the authority of this Act shall be paid by the master of the ship in respect of which the same shall be payable to the Board, who shall from time to time pay the amount of such dues to the Treasurer for the public uses of the said province.

Ship not to be cleared
without production of
receipts for dues.

319. A receipt for lighthouse or mooring dues shall be given by the person appointed to collect the same to every person paying the same, and no officer of Customs shall grant a clearance or transire for any ship unless the receipt for such dues is produced to him.

Powers of consignees
to recover light or
mooring dues paid
by them.

320. Every consignee and agent (not being the owner or master) hereby made liable for the payment of light dues or mooring dues in respect of any ship may, out of any moneys in his hands received on account of such ship, or belonging to the owner thereof, retain the amount of all dues so paid by him, together with any reasonable expenses he may have incurred by reason of such payment or liability.

Marine Board and Navigation Act.—1881.

321. If any person wilfully or negligently commits any of the following offences, that is to say—

PART VI.

Penalty for injuring lights, buoys, and beacons.

- i. Injures any lighthouse or the lights exhibited therein, or any buoy, beacon, wharf, or jetties under the control of the Board:
- ii. Removes, alters, or destroys any lighthouse, buoy, or beacon:
- iii. Rides by, makes fast to, or runs foul of any lighthouse, buoy, or beacon—

He shall, in addition to the expenses of making good any damage so occasioned, incur a penalty not exceeding One Hundred Pounds.

Prevention of False Lights.

322. Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, it shall be lawful for the Board to serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person having the charge of such fire or light, either personally or by delivery at the place of abode of such owner or person, or by affixing the same in some conspicuous spot near to such fire or light, and by such notice to direct such owner or person, within a reasonable time to be therein specified, to take effectual means for the extinguishing or effectually screening such existing light, and for preventing for the future any similar fire or light.

Board may prohibit false lights.

Any owner or person disobeying such notice shall be deemed guilty of a common nuisance, and, in addition to any other penalties or liabilities of any kind thereby incurred, shall incur a penalty not exceeding One Hundred Pounds.

323. If any owner or person served with such notice as aforesaid neglects for a period of two days to extinguish or effectually screen the fire or light therein mentioned, it shall be lawful for the Board, or any person authorised by them, to enter upon the place whereon the same may be and forthwith to extinguish such fire or light, doing no unnecessary damage; and all expenses incurred in such extinction may be recovered from such person or owner as aforesaid in the same way as penalties are hereby directed to be recoverable.

If not obeyed, Marine Board may abate such lights.

PART VII.**PART VII.**

EXAMINATIONS, AND CERTIFICATES OF MASTERS, MATES, AND ENGINEERS.

Certificates of Competency.

324. Examinations shall be instituted for persons who intend to become masters, mates, or engineers of foreign-going ships, or of intercolonial ships trading by sea or river, or of coast-trade ships, or of steamships plying within restricted limits, or who wish to procure certificates

Examinations to be instituted for masters, mates, and engineers.

*Marine Board and Navigation Act.—1881.***PART VII.**

certificates of competency, hereinafter mentioned, and such examinations shall be held at such places as the Board shall direct. The Board may appoint times for such examinations, and may, with the consent of the Treasurer, appoint, remove, and reappoint examiners to conduct the same, and may from time to time make, and when made revoke, alter, and add to, rules for the conduct of such examinations, and as to the qualifications of the applicants, and may fix the fees to be paid by such applicants.

Certificates of competency to be granted to those who pass.

325. The examiners shall report upon the result of every such examination to the Board, and the Secretary shall thereupon sign and deliver to every applicant who is duly reported to have satisfactorily passed the examination, and to have given satisfactory evidence as to his sobriety, experience, ability, and general good conduct, such a certificate (hereinafter called a "certificate of competency") as the case requires: Provided that in every case in which the Board have reason to believe such report to have been unduly made, such Board may remit the case either to the same or any other examiner, and may require a re-examination of the applicant, or a further inquiry as to his testimonials or character before granting him a certificate.

Certain ships to carry certificated masters and mates.

326. No ship, except ships exempted as in this Act mentioned, shall go to sea from any port or place in the said province unless such ship is provided with officers holding valid certificates of competency or service under this Act, or equivalent certificates granted by the Board of Trade of the United Kingdom or other recognised competent authority, according to the scale required by the laws of the country in which she is registered, or else according to the following scale, that is to say—

i. If she be a foreign-going ship—

(a) Of less than one hundred tons register, with a certificated master:

(b) Of one hundred tons register or less than three hundred tons register, with a master and a first mate or an only mate, as the case may be, duly certificated:

(c) Of three hundred tons register and upwards, with a master and a first mate and a second mate or an only mate, as the case may be, duly certificated:

ii. If she be an intercolonial ship trading by sea—

(a) Of less than one hundred tons register, with a certificated master:

(b) Of one hundred tons register and less than three hundred tons register, with a master and a first mate or an only mate, as the case may be, duly certificated:

(c) Of three hundred tons register or upwards, with a master and a first mate and a second mate or an only mate, as the case may be, duly certificated:

iii. If

*Marine Board and Navigation Act.—1881.*PART VII.

III. If she be a coast-trade ship or an intercolonial ship trading by river—

(a) Of fifteen tons register or less than one hundred tons register, with a certificated master:

(b) Of one hundred tons register or upwards, with a master and a first mate or only mate, as the case may be, duly certificated:

IV. If she be a coast-trade passenger ship, or an intercolonial passenger ship trading by river—

(a) Of fifteen tons register or less than three hundred tons register, with a master and a first mate or only mate, as the case may be, duly certificated:

(b) Of three hundred tons register or upwards, with a master and a first mate and a second mate or only mate, as the case may be, duly certificated.

327. No steamship shall go to sea, or ply, or trade in South Australian waters unless such steamship is provided with an engineer or engineers holding valid certificates of competency or service as aforesaid as follows, that is to say —

Steamships to carry certificated engineers.

I. Engineers' certificates shall be of three grades, namely, "first-class engineers' certificates," "second-class engineers' certificates," and "third-class engineers' certificates":

II. Every foreign-going steamship, or intercolonial steamship trading by sea, or coast-trade steamship, of one hundred nominal horse-power or upwards, shall have as her first and second engineers two certificated engineers, the first possessing a first-class engineer's certificate, and the second possessing a second-class engineer's certificate or a certificate of a higher grade:

III. Every foreign-going steamship, or intercolonial steamship trading by sea, or coast-trade steamship of less than one hundred nominal horse-power, shall have as her only or first engineer an engineer possessing a second-class engineer's certificate or a certificate of a higher grade:

IV. Every intercolonial steamship trading by river, and every steamship plying within the limits of any port in the said province, shall have as her engineer an engineer possessing a third-class engineer's certificate or a certificate of a higher grade:

And if any such ship proceeds to sea from, or plies or engages in trade in, any port or place in the province, without being so provided, the owner of the ship shall incur a penalty not exceeding One Hundred Pounds.

328. In

*Marine Board and Navigation Act.—1881.***PART VII.**

Penalties on fraudulent use of certificates, &c.

328. In each of the following cases—

- I. If any person not possessed of a valid certificate appropriate to his grade suffers himself to be engaged or acts as master, mate, or engineer in contravention of this Act:
- II. If any person employs or suffers any person to serve as master, mate, or engineer in contravention of this Act, without using all reasonable means (proof whereof shall lie on him) to ascertain that the person so serving is duly certificated:
- III. If any person fraudulently engages or employs, or suffers to be engaged or employed, any duly certificated master, mate, or engineer to serve for the purpose only of enabling any ship to clear, and not for the purpose of the whole voyage, or if any master, mate, or engineer so fraudulently engages himself:

Then and in every such case the person so offending shall for every such offence incur a penalty not exceeding Fifty Pounds; and if any certificated master, mate, or engineer is engaged to serve on board any ship and quits such ship before or upon the commencement of her voyage, he shall be deemed, unless the contrary is shown, to have been fraudulently engaged or employed as aforesaid.

Form of certificates
Grants, cancellation,
&c., to be recorded.

329. All certificates (whether of competency or service) granted by the Board shall be made in duplicate, and in proper form, and one part shall be delivered to the person entitled to receive the certificate, and the other shall be kept and recorded by the Secretary or by such other officer as the Board appoint for the purpose; and the Secretary or other officer as aforesaid shall make an entry in the record of such certificates of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained; and a copy purporting to be certified by such Secretary or other officer as aforesaid of any certificate shall be *prima facie* evidence of such certificate; and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be *prima facie* evidence of the truth of the matters stated in such entry.

In case of loss a copy
to be granted.

330. Whenever any master, mate, or engineer proves to the satisfaction of the Board that he has, without fault on his part, lost or been deprived of any certificate already granted to him by the Board, the Board shall, upon payment of such fee (if any) as they direct, cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled to be made out and certified as aforesaid, and to be delivered to him; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

Penalties for false
representations.

331. Every person who makes, or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself

Marine Board and Navigation Act.—1881.

himself or for any other person a certificate either of competency or of service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any official copy of any such certificate, or who fraudulently makes use of any such certificate or any copy of any such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, shall for each offence be deemed guilty of a misdemeanor.

PART VII.

For forging or altering,

Or fraudulently using or lending any certificate.

Certificates of Service.

332. Certificates of service differing in form from certificates of competency shall be granted by the Board as follows, that is to say—

Certificates of service, to whom deliverable.

- I. Every person who, before the first day of January, one thousand eight hundred and seventy-one, served as master of a foreign-going ship, or intercolonial ship, and had his usual place of residence in South Australia for a period of not less than three years then next preceding, or who has attained or attains a rank in the service of Her Majesty not lower than that of navigating sub-lieutenant, shall be entitled to a certificate of service as master for foreign-going ships or intercolonial ships:

Master, foreign-going and intercolonial ships.
- II. Every person who, before the first day of January, one thousand eight hundred and seventy-one, served as a mate of a foreign-going ship or intercolonial ship, and had his usual place of residence in South Australia for a period of not less than three years then next preceding, shall be entitled to a certificate of service as mate for foreign-going ships or intercolonial ships:

Mate, foreign-going and intercolonial ships.
- III. Every person who, before the first day of January, one thousand eight hundred and seventy-one, has served as master of a coast-trade ship, and had his usual place of residence in South Australia for a period of not less than three years then next preceding, shall be entitled to a certificate of service as master for coast-trade ships or coast-trade passenger ships:

Master, coast-trade ships.
- IV. Every person who, before the first day of January, one thousand eight hundred and seventy-one, has served as mate of a coast-trade ship, and had his usual place of residence in South Australia for a period of not less than three years then next preceding, shall be entitled to a certificate of service as mate for coast-trade ships or coast-trade passenger ships:

Mate, coast-trade ships.
- V. Every person who, before the first day of January, one thousand eight hundred and seventy-one, has served as master of a steamship having a "river certificate," shall be entitled to a certificate of service as master for intercolonial steamships trading by river:

Master, river steamships.

VI. Every

*Marine Board and Navigation Act.—1881.***PART VII.**
First-class engineer.

VI. Every person who, before the first day of January, one thousand eight hundred and sixty-eight, has served as first engineer in any foreign-going steamship or intercolonial steamship trading by sea of one hundred nominal horse-power or upwards, or who has attained or attains the rank of engineer in the service of Her Majesty, shall be entitled to a "first-class engineer's certificate" of service.

Second-class engineer.

VII. Every person who, before the first day of January, one thousand eight hundred and sixty-eight, has served as second engineer in any foreign-going steamship, or intercolonial steamship trading by sea, of one hundred nominal horse-power or upwards, or as first or only engineer in any sea-going steamship, or who has attained or attains the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a "second-class engineer's certificate" of service:

Third-class engineer.

VIII. Every person who, before the first day of January, one thousand eight hundred and sixty-eight, has served as only engineer of any steamship plying within the limits of any port, or as only engineer of any intercolonial steamship trading by river, shall be entitled to a "third-class engineer's certificate":

And each of such certificates of service shall contain particulars of the name, place, and time of birth, and of the length and nature of the previous service, of the person to whom the same is delivered; and it shall be lawful for the Secretary to sign and deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank, or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

PART VIII.**PART VIII.****EXPLOSIVES.***Shipment and Discharge.*

Vessels arriving with
explosives to hoist
Pilot Jack at the
main.

333. The master of any ship arriving at any port in the said province having any explosives on board besides the ship's stores in ship's magazines, or exceeding twelve pounds in weight, shall forth with hoist a Pilot Jack at the main-mast head, and shall keep such Pilot Jack so flying until all such explosives as aforesaid shall have been landed; and if any master of any such ship shall offend herein he shall be liable to a penalty not exceeding Twenty Pounds.

Ships to land ex-
plosives at magazine.

334. The master of every ship arriving in any port of the said province, and not being within such distance from the Custom House or Marine Board Office of any such port as shall, from time to time, be fixed by the Board, shall land, in the manner directed by this Act, at such magazine or magazines as shall be appointed for the

*Marine Board and Navigation Act.—1881.*PART VIII.

the purpose by the Board, all explosives exceeding twelve pounds in weight which may be on board such ship. And upon the receipt of such explosives at such magazine or magazines so appointed as aforesaid the magazine-keeper shall give to the master a receipt describing the packages containing the same, which receipt shall be deemed in law to maintain any lien which the master or owner of the ship may have upon the said explosives therein described for freight or other lawful charges upon the same respectively; and the master shall forthwith give to the Board notice in writing of such lien. Every importer shall, within forty-eight hours after the arrival of any such ship at or beyond such distance as aforesaid, deliver to the magazine-keeper a full description of the said explosives, showing the quantity with the marks and numbers of the packages containing the same, which description the magazine-keeper shall enter, together with the name of such importer, in a book to be kept for that purpose, and shall thereupon give a certificate of such entry to the said importer. And no person shall be entitled to receive any explosives from any magazine unless he shall produce to the Board or magazine-keeper such certificate, nor unless the storage and any other charges authorised by this Act shall have been paid to the magazine-keeper, or other person authorised by the Board to receive the same.

Importer to give particulars of explosives.

335. The master of every ship lying within such distance as aforesaid in any port in the said province, at any time after the coming into operation of this Act, on board of which any explosives exceeding twelve pounds in weight shall be found, shall be liable to a fine of Ten Shillings for every additional pound weight of such explosives so found: Provided that twenty-four hours from the time of anchorage at or beyond such distance as aforesaid, shall be allowed to the master of every such ship for the landing of all explosives exceeding the aforesaid weight.

Penalty on ships found in port with explosives.

336. The master of every ship arriving in any port in the said province with explosives exceeding twelve pounds in weight on board such ship shall, previously to the landing of such explosives for the purpose of being deposited in a Government or licensed magazine or magazines, report the same to the Board; and so soon as the same shall be reported the Board are hereby authorised to grant a permit or permits to the master of such ship to land such explosives in order that the same may be deposited in one of the Government magazines or in a licensed magazine, and if such explosives are to be deposited in a Government magazine the said Board shall receive the same into their custody and charge, and shall enter in a book, to be kept for that purpose, the name of such ship and of the master thereof.

Explosives on arrival to be reported.

337. Any explosives which may be so permitted to be deposited in a Government magazine or licensed magazine as aforesaid, shall be removed, from the ship in which the same may be so imported, only between such hours as may be appointed by the Board, and

Explosives to be removed from ship to magazine between such hours as the Board may appoint.

*Marine Board and Navigation Act.—1881.*PART VIII.

and when and so often as any quantity or quantities of explosives shall be so removed, the same shall be brought direct from such ship to such place as may have been appointed for the landing of such explosives, and thence to such magazine or magazines as aforesaid, by and at the expense of the owner of the ship, or of the proprietor or importer of such explosives.

Penalty on going
alongside wharves.

338. No ship shall be allowed to come alongside any wharf in any port in the said province, until all explosives exceeding twelve pounds in weight which may be on board shall be first landed as aforesaid, and every master of a ship who shall offend herein, shall forfeit and pay a penalty of One Pound sterling for every additional pound weight of such explosives found on board.

Explosives to be
landed at the place
appointed for the
purpose.

339. No explosives shall be landed as aforesaid, or shipped in any port in the said province, other than at such landing places or shipping places as may be appointed for that purpose by the Board, and any person or persons who shall land, or attempt to land, or ship or attempt to ship, any explosives contrary to the provisions of this section, shall forfeit and pay the sum of Two Shillings for every pound weight of explosives so landed or shipped, or attempted to be landed or shipped.

Explosives not to be
shipped within certain
limits.

340. No ship or boat shall take on board any explosives exceeding twelve pounds in weight whilst within the distance from the Custom House or Marine Board Office fixed as aforesaid; and no ship or boat (unless by order of the Board) shall take on board any explosives exceeding twelve pounds in weight illegally brought within such distance as aforesaid. And every master of a ship, or person in charge of a boat, or any other person offending herein, shall, forfeit and pay a penalty of Ten Shillings for every additional pound weight of explosives so taken on board.

Explosives embarked
from magazines to be
landed as directed by
Act.

341. Explosives embarked from any Government or licensed magazine shall not be landed except as directed by this Act, and any person offending herein shall, for every such offence, forfeit and pay a penalty of Two Shillings for every pound weight of explosives landed contrary to this section.

Boats carrying
explosives to be
licensed and pro-
vided with tarpaulins.

342. No boat shall be used for the conveyance of explosives unless approved and licensed by the Board, and provided with such tarpaulins or other coverings as the Board may direct; and any person who shall convey any explosives in any boat not so approved and licensed and provided with tarpaulins or other coverings as aforesaid, shall forfeit and pay the sum of Ten Pounds for every such offence; and every person in charge of such boat acting without such licence shall forfeit and pay the sum of Ten Pounds for every such offence.

Explosives imported
in packages with other
merchandise not duly
marked liable to
seizure.

343. Should any explosives exceeding twelve pounds in weight be imported in any ship arriving in Port Adelaide, or any other port within

Marine Board and Navigation Act.—1881.

within the said province, whether by itself or packed with any other merchandise, and the package containing the same not being marked so as to show that explosives are therein contained, and specifying the same, such explosives, together with the package containing the same and the said merchandise, shall be liable to seizure and confiscation, may be declared by a Special Magistrate or two Justices to be forfeited, and may be sold by the Board in such manner as they direct. And the importer of the same wilfully neglecting to report the importation of such explosives to the Board within twenty-four hours after the arrival of the said ship in such port, shall be liable to a penalty not exceeding Ten Pounds.

PART VIII.

344. No explosives exceeding twelve pounds in weight shall be shipped on board any ship, or shipped, delivered, or conveyed in any boat or carriage without a plain and durable brand or superscription on the package containing the same, showing what explosives are therein contained. And if any person shall so ship or deliver, or cause to be shipped or delivered, any such explosives without such brand or superscription, or if any master of any ship shall knowingly receive on board or permit to be landed any such explosives without such notification and brand or superscription, every such person so offending shall be liable to a penalty not exceeding Fifty Pounds.

No explosive, &c., to be shipped, &c., unless contents are marked on package.

Removal.

345. All explosives exceeding twelve pounds in weight when in course of removal shall be in barrels closely joined and hooped, or in copper, zinc, or tinned cases or canisters enclosed in wooden boxes or barrels, and no such box or barrel shall contain more than one hundred pounds in weight of any explosive, and such explosive shall be so secured that no part thereof can be scattered in its removal. And in case any of such packages shall be defectively constructed or made contrary to the provisions of this section, or of any regulation which may be hereafter made by the Board, the magazine-keeper appointed by the Board may, if he deem it necessary, remove the contents of the said packages into secure and properly-constructed barrels or boxes, and charge and receive from the importer or owner for such removal the actual expense incurred for every barrel or box so repacked; and the magazine-keeper may refuse to deliver to the said importer or owner the explosive so repacked until the said charge shall be paid: Provided always that in case such repacking cannot be done without danger the magazine-keeper may, with the permission of the Board, order the said explosive so defectively packed to be destroyed.

Explosives to be made secure in proper packages.

346. In case the importer or owner of any explosive, while it shall be deposited in any Government magazine, shall sell or transfer the whole or any part of the same to any other person, such sale or transfer shall be immediately reported in writing to the Board or magazine-keeper, and a certificate of such sale or transfer, together with any other documents necessary for claiming transfer and delivery of such explosive from such importer or owner, shall also be produced

Sale or transfer to be reported to the officer in charge.

*Marine Board and Navigation Act.—1881.***PART VIII.**

duced to the Board or magazine-keeper, in order that the same may be duly registered, otherwise the magazine-keeper may refuse to deliver up the said explosive to any other than the recipient of the original certificate; and such importer or owner shall pay to the Board such fee (if any) for every registration of such sale or transfer as the said Board may direct.

Regulating storage
rent.

347. The storage rent and other charges for any explosives deposited in any Government magazine as aforesaid shall be paid by the importer or holder of the certificate thereof at the rates to be authorised by the Board, with the consent of the Governor in Council, and such importer or holder shall be held liable for the payment of storage and all other expenses thereupon until the transfer in the property of such explosive has been duly reported to and registered by the Board or magazine-keeper: Provided that it shall be lawful for the Board, with the like consent, at any time, by any order or regulation, to diminish the rate of such store rent and other charges, and again to increase such rate or charges.

Explosives may be
sold for payment of
charges.

348. If the storage rent due upon, and all other charges and expenses incurred in respect of, any explosives heretofore or hereafter to be deposited in any Government magazine, subject to the provisions of this Act, shall not be paid within twelve months after such explosives shall have been so deposited, or within one month after demand shall have been made by the Board, or officer appointed in that behalf, it shall be lawful for such Board or officer to cause such explosives, or so much thereof as may appear to be necessary to satisfy all such storage rent, and other charges and expenses, to be sold by public auction, after having been advertised for two weeks in the *Government Gazette*, and the produce thereof shall be applied first to the payment of such storage rent, and all other charges and expenses as aforesaid, and the surplus (if any) shall be paid to the importer or other person duly authorised to receive the same.

Quantity of explosives
to be conveyed and
construction of car-
riages.

349. Not more than one ton weight of any explosives shall be conveyed at one time in any carriage, except when being conveyed by railway or being otherwise under the control and supervision of the Government; and the carriage used in conveying explosives exceeding one hundred pounds weight shall be specially constructed for that purpose, shall be lined on the bottom and on each side with wood fastened with copper bolts or copper nails, shall have the owner's name and the number of the carriage painted on both sides thereof in letters not less than three inches long, and shall be so constructed that no iron or steel can come in contact with a package containing any explosive; but if such carriage forms part of any railway train, then, any quantity of explosives not exceeding two tons weight may be conveyed therein, and the word "Gunpowder" shall in all cases be painted on every carriage in capital letters not less than six inches long; and every carriage shall have a complete covering of wood or of painted cloth or woollen cloth tilts over all the explosives conveyed therein; and any person who shall, in the conveyance of any explosives fail to comply with the provisions of this section, shall,

Marine Board and Navigation Act.—1881.

shall, for every such offence be liable to a penalty not exceeding Ten Pounds, and to the forfeiture of the carriage and the animals used therewith (if any) and all the explosives and their packages then being thereon or therein: Provided that explosives carried on the Government railways shall not be so forfeited.

PART VIII.

350. No person shall take any explosives exceeding one hundred pounds net weight to any railway station until he has obtained a certificate for transit thereof from the traffic manager that he is prepared to receive it; and any person so offending in any such case shall be liable to a penalty not exceeding Fifty Pounds.

Unlawful carriage of explosives.

351. No person shall carry any explosive exceeding two pounds in weight in any omnibus, coach, or other public vehicle, used for the conveyance of passengers, nor in any licensed boat, any passenger being therein, under a penalty not exceeding Five Pounds.

Explosives not to be carried in public vehicles or watermen's boats.

Licensing, &c.

352. Explosives shall not be kept at or in any place except as follows, that is to say—

Explosives only to be kept in authorised places.

- i. Except in a Government magazine either now existing or which may hereafter be proclaimed by the Treasurer as a Government magazine:
- ii. Or in a private magazine duly licensed by the Board under the authority and according to the provisions of this Act and the regulations which the Board may from time to time make for the storage of explosives:
- iii. Or on any premises duly licensed under the provisions of this Act and the regulations made hereunder:
- iv. Or on any premises appointed for the storage of explosives under the provisions of the Municipal Corporations Act, 1880, or any Act or Acts amending or repealing that Act:

Provided always that this section shall not apply to any person keeping explosives for his own use, and not exceeding the amount of twelve pounds weight on the same premises unless duly registered as aforesaid. And whenever any explosive shall be kept in any place other than is above or elsewhere by this Act and the aforesaid regulations authorised, the same may be forthwith seized by the Board or the inspector of magazines appointed by the Board, or inspector of police, and may be declared to be forfeited by any Special Magistrate or two Justices; and the occupier of such place and the owner of the explosive so unlawfully authorising the keeping of the same as aforesaid, shall each be liable to a penalty not exceeding Twenty Shillings for every pound weight of explosive so kept in excess of the authorised quantity.

353. The Board may license as a magazine any suitable building (not being within any city or town, or the suburbs thereof, or within two hundred yards of any building or public road) which shall be certified by an inspector of magazines or an officer duly appointed by

Magazines may be licensed.

*Marine Board and Navigation Act.—1881.***PART VIII.**

by the Board for the purpose to be suitable with regard to its situation and external and internal construction for the safe custody of gunpowder or any other explosive, as the case may be. And upon any such building being so certified, the Board may issue a licence to the owner or other person intended to have the charge of the said magazine, provided that such owner or person shall be approved by the Board as being duly qualified, and such licence shall be valid only for the person named therein. And in the event of any wilful neglect of any provision of this Act, or of any regulation made under its authority, by the person so being licensed, all or any part of the explosives then in his magazine at the time the offence was committed shall be liable to be declared forfeited by any Special Magistrate or two Justices, and the owner or occupier (being such licensee) shall also be liable to a penalty not exceeding Ten Pounds for every day during which such negligence may continue, and the said licence shall be forfeited.

Licences for private
magazines.

354. A licence may be granted to any person for a private magazine subject to the provisions of this Act, and of any regulations made by the Board hereunder.

Licences to be
granted.

355. All licences and certificates granted under this Act and the regulations made thereunder, shall be issued by the Board, and shall be valid only for the persons named therein, and for the quantities of explosives therein specified. Upon any wilful neglect of any of the provisions of this Act, or of any regulation made under its authority, licences shall be declared forfeited by a Special Magistrate or two Justices, who may also impose a penalty of Ten Pounds for every day during the continuance of any such negligence.

Carrying Explosives.

Passenger steamships
prohibited from
carrying explosives.

356. No steamship carrying passengers shall carry any explosives except such reasonable quantity as may be required for the purpose of making signals, and kept in properly-constructed copper magazines, or otherwise protected to the satisfaction of an inspector of magazines appointed by the Board; and the master or owner of any such steamship as aforesaid on board of which any explosives may be found contrary to the provisions of this section, shall, on conviction before a Special Magistrate or two Justices, forfeit and pay for every such offence any sum not exceeding One Hundred Pounds nor less than Ten Pounds.

Explosives found on
board ships may be
seized.

357. The Board or any officer of Customs, or any inspector of magazines appointed by the Board, may seize without warrant any explosives which may be found on board any steamship contrary to the provisions of the last preceding section, and all explosives so found shall be forfeited, and, when forfeited, shall be disposed of as such Magistrate or Justices direct.

Restrictions on
carriage of explosives.

358. If any person sends, or attempts to send by, or, not being the master or owner of the ship, carries, or attempts to carry, in any

*Marine Board and Navigation Act.—1881.***PART VIII.**

any ship, British or foreign, any explosives, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of such explosives, and of the name and address of the sender or carrier thereof, to the master or owner of the ship, at or before the time of sending the same to be shipped or taking the same on board the ship, he shall, for every such offence, incur a penalty not exceeding One Hundred Pounds: Provided that if such person show that he was merely an agent in the shipment of any such explosives as aforesaid, and was not aware and did not suspect and had no reason to suspect that the explosives shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed Ten Pounds.

359. If any person knowingly sends or attempts to send by, or carries or attempts to carry in, any ship, British or foreign, any explosives under a false description, or falsely describes the sender or carrier thereof, he shall incur a penalty not exceeding Five Hundred Pounds.

Penalty for mis-
description of
explosives.

360. The master or owner of any ship, British or foreign, may refuse to take on board any package or parcel which he suspects to contain any explosives, and may require it to be opened to ascertain the fact.

Power to refuse to
carry package sup-
posed to contain
explosives.

361. Where any explosives have been sent or brought on board any ship, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the ship may cause such explosives to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the ship shall, in respect of such throwing overboard, be subject to any liability, civil or criminal, in any court.

Power to throw over-
board explosives.

362. Where any explosives have been sent or carried, or attempted to be sent or carried, on board any ship, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, and where any such explosives have been sent or carried, or attempted to be sent or carried, under a false description, or the sender or carrier thereof has been falsely described, such explosives, and any package or receptacle in which they are contained, shall be liable to be declared forfeited by a Special Magistrate or two Justices.

Forfeiture of explo-
sives improperly sent.

The said Magistrate or Justices shall have and may exercise the aforesaid powers of forfeiture and disposal, notwithstanding that the owner of the explosives has not committed any offence under the provisions of this Act relating to explosives, and be not before him or them, and has not notice of the proceedings, and notwithstanding that there be no evidence to show to whom such explosives belong; nevertheless, the Magistrate or Justices may, in his or their discretion, require such notice as he or they may direct to be given to the owner or shipper of the said explosives before the same are forfeited.

Miscellaneous.

Marine Board and Navigation Act.—1881.

PART VIII.

Expression
“explosives”
include every
substance as defined
therein.

Miscellaneous.

363. In the construction, and for the purposes of this Act, the expression “explosives,” whenever used, shall be deemed to include the following substances, or either of them, that is to say—nitro-glycerine, dynamite, lithofracteur, gun-cotton, blasting powder, fulminate of mercury or other metals, colored fires, and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect—as well as fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridge, ammunition of all descriptions, and every adaptation or preparation of any of the said substances; and also every other material or substance which the Governor may, by Proclamation published in the *Government Gazette*, direct to be included within the meaning of the expression “explosives” for the purposes of this Act.

Marine Board may
define and classify
explosives.

364. It shall be lawful for the Board from time to time, with the consent of the Governor, to define, for the purposes of this Act, the composition, quality, and character of any explosive, and to classify explosives.

Where the composition, quality, or character of any explosive has been defined as aforesaid, any article alleged to be such explosive which differs from such definition in composition, quality, or character, whether by reason of deterioration or otherwise, shall not be deemed, for the purposes of this Act, to be the explosive so defined.

Justice, on oath, to
issue a search
warrant.

365. For the more easy discovery of the keeping and carriage of explosives, contrary to the provisions of this Act, it shall be lawful for any Justice, upon demand made and a reasonable cause assigned, upon oath, by any person or persons, to issue a warrant or warrants under his hand for searching, in the day-time, any house, storehouse, warehouse, shop, cellar, yard, wharf, or other building or place, or ship in which explosives are suspected to be kept, contrary to the provisions of this Act; and all explosives found upon search to be kept contrary to the provisions of this Act, and, also, the barrels and packages in which the same are contained, shall be immediately seized by the searcher or searchers, who shall, with all convenient speed after the seizure, remove the same to such proper places as they, in conformity with the restrictions of this Act, shall think fit, and may detain such explosives, and the barrels and packages containing the same, until it shall be adjudged on a hearing before a Special Magistrate or two Justices, whether the same shall be forfeited; and such searcher or searchers, seizer or seizers, shall not be liable to any suit for such detention, or for any loss or damage which may happen to such explosives, or barrels, or packages, other than by wilful acts of neglect of them, or of the persons with whom they shall trust the keeping thereof.

Marine Board may
appoint Inspectors of
Magazines.

366. The Board may, with the sanction of the Treasurer, appoint Inspectors of Magazines, and may assign to them their duties; and every such appointment shall thereupon be published in the *Government Gazette*.

367. Nothing

Marine Board and Navigation Act.—1881.

367. Nothing in the Eighth Part of this Act contained shall be deemed or held to apply—

PART VIII.

Part Eight of Act not to apply to H.M.'s ships.

- I. To any explosive or explosive substance the property of Her Majesty on board any of Her Majesty's ships:
- II. Nor to the keeping of explosives or explosive substances in any magazine belonging to Her Majesty or to the carriage thereof to and from any magazine under a special order of the Treasurer or when under the control and management of any officer of Her Majesty's army, navy, or ordnance, or other duly authorised person:
- III. Nor to any gunpowder, rockets, or other explosive or explosive substance on board any ship in pursuance of the provisions of the Merchant Shipping Act, 1854, and the Acts amending the same, or any order or regulation made under any of those Acts: Provided that the conveyance and keeping thereof on board the ship or elsewhere, while the ship is in harbor, shall be subject to the regulations made or to be hereafter made by the Board:
- IV. Nor to any explosives or explosive substances supplied to or used by her Majesty's Volunteer Military Forces.

Nor in any of H.M.'s magazines.

Nor to rockets, &c., on board ships.

Nor to explosives used by Her Majesty's Forces.

PART IX.**LEGAL PROCEDURE.****PART IX.**

368. This Act shall be and be construed as an Act relating to the Customs, trade, and navigation, and all rights, remedies, enactments, and provisions of the law for the time being in force within the said province, relating to the Customs, trade, and navigation, shall, so far as applicable and not inconsistent herewith apply to all persons and things, and to all forfeitures, penalties, seizures, and other proceedings under this Act, as if the same were expressly herein inserted.

Act to be construed as an Act relating to the Customs, trade, and navigation.

369. The offences hereinafter mentioned shall be punished, and penalties recovered in manner following, that is to say—

Punishment of offences and recovery of penalties.

- I. Every offence by this Act declared to be a misdemeanor, shall be punishable by fine or imprisonment, with or without hard labor, and the Court before which such offence is tried may make such allowances, and order such payment of costs and expenses (if any) as are payable or allowable upon the trial of a misdemeanor under any law for the time being in force:
- II. Every offence declared by this Act to be a misdemeanor shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labor, or by a penalty not

*Marine Board and Navigation Act.—1881.***PART IX.**

not exceeding One Hundred Pounds, and may be prosecuted accordingly in a summary manner under the provisions of the Ordinance No. 6 of 1850 instead of being prosecuted as a misdemeanor :

- 111. Every offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labor, or by any penalty not exceeding One Hundred Pounds, shall be prosecuted summarily before any two or more Justices :
- iv. In all cases of summary conviction where the sum adjudged to be paid exceeds Five Pounds, or the period of imprisonment adjudged exceeds one month, any person who thinks himself aggrieved by such conviction may appeal to the Local Court, Adelaide, of Full Jurisdiction ; and the proceedings on such appeal shall be conducted in manner appointed by the Ordinance No. 6 of 1850 for appeals to Local Courts :
- v. All offences under this Act not otherwise provided for shall be punishable in a summary manner under the provisions of the Ordinance No. 6 of 1850, and the penalty in respect thereof recoverable :
- vi. No conviction or order under this Act shall be quashed or removed by *certiorari* or otherwise into the Supreme Court for want of form.

Offence where
deemed to have been
committed.

370. For the purpose of giving jurisdiction under this Act every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Jurisdiction over
ships lying off the
coasts.

371. In all cases where any district within which any Court, or Justice or other Magistrate, has jurisdiction, either under this Act or under any other Act, or otherwise howsoever, for any purpose whatever, is situate on the coast of any sea, or abutting in or projecting into any bay, channel, lake, river, or other navigable water, every such Court, Justice, or Magistrate, shall have jurisdiction over any ship or boat being on, or lying, or passing off, such coast, and within the limits of the said province, or being in or near such bay, channel, lake, river, or navigable water as aforesaid, and over all persons on board such ship or boat, or for the time being belonging thereto, in the same manner as if such ship, boat, or persons were within the limits of the original jurisdiction of such Court, Justice, or Magistrate.

Sums ordered to be
paid leviable by dis-
tress on ship.

372. In all cases where any Court, Justice, or other Magistrate, has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order,

the

Marine Board and Navigation Act.—1881.

the Court, Justice, or other Magistrate who made the order, may, in addition to any other powers they or he may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or pounding and the sale of such ship and her tackle.

PART IX.

373. Any Court, Justice, or Magistrate, imposing any penalty under this Act for which no specific application is herein provided, may, if it or he think fit, direct the whole, or any part thereof, to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and subject to such directions or specific application as aforesaid, all penalties recovered in the said province under this Act shall go and be distributed, one moiety to the person who shall inform or sue for the same, and the other moiety to the Treasurer for the public uses of the said province and the support of the Government thereof.

Application of penalties.

374. The time for instituting summary proceedings under this Act shall be limited as follows, that is to say—

Limitation of time in summary proceedings.

- I. No conviction for any offence shall be made under this Act, in any summary proceeding instituted in the said province, unless such proceeding is commenced within six months after the commission of the offence, or if both or either of the parties to such proceeding happen during such time to be out of the said province, unless the same is commenced within two months after they both first happen to arrive or to be at one time within the same:
- II. No order for the payment of money shall be made under this Act, in any summary proceeding instituted in the said province, unless such proceeding is commenced within six months after the cause of complaint arises, or if both or either of the parties happen during such time to be out of the said province, unless the same is commenced within six months after they both first happen to arrive or to be at one time within the same:

And no provision contained in any other Act or Ordinance for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

375. Any document required by this Act to be executed in the presence of, or to be attested by, any witness, may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witnesses or any of them.

Document proved without calling attesting witnesses.

376. Where any order, notice, statement, or document requires, for the purpose of any provisions of this Act, to be served on the master of a ship, the same shall be served, where there is no master and the ship is in the province, on the managing owner of the ship;

Service of order on master.

or

*Marine Board and Navigation Act.—1881.***PART IX.**

or if there is no managing owner, on some agent of the owner residing in the province; or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Any such order, notice, statement, or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of such ship.

Penalty on obstructing service on master of ship.

377. Any person who obstructs the service of any order, notice, statement, or document, on the master of a ship shall incur a penalty not exceeding Ten Pounds, and if the owner or master of the ship is party or privy to such obstruction, he shall be guilty of a misdemeanor.

Power of Judge of Supreme Court or Admiralty to arrest foreign ship that has occasioned damage.

378. Whenever any injury has, in any part of the world, been caused to any property belonging to Her Majesty, or to any of Her Majesty's subjects, by any foreign ship, if at any time thereafter such ship is found in any port or river of the said province, or within three miles of the said coast thereof, it shall be lawful for any Judge of the Supreme Court or of the Court of Vice-Admiralty of the said province, upon its being shown by any person applying summarily, that such injury was probably caused by the misconduct or want of skill of the master or seamen of such ship, to issue an order directed to any officer of Customs, or other officer, requiring him to detain such ship until such time as the owner, master, or consignee thereof hath made satisfaction in respect of such injury, or has given security, to be approved by the Judge making the order, to abide the event of any action, suit, or other legal proceedings that may be instituted in respect of such injury, and to pay all costs and damages that may be awarded therein, and any officer of Customs, or other officer to whom such order is directed, shall detain such ship accordingly.

Power in certain cases to detain ship before application made to Judge.

379. In any case where it appears that before any application can be made under the foregoing section such foreign ship will have departed beyond the limits therein mentioned, it shall be lawful for the Board to detain such ship until such time as will allow such application to be made and the result thereof to be communicated to such Judge; and the Board shall not be liable for any costs or damages in respect of such detention, unless the same is proved to have been made without reasonable grounds.

Who to be defendant to suit in such cases.

380. In any action, suit, or other proceeding in relation to such injury, the person so giving security, as aforesaid, shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned such damage, and the production of the order of the Judge, made in relation to such security, shall be conclusive evidence of the liability of such defendant or defender to such action, suit, or other proceeding.

PART

Marine Board and Navigation Act.—1881.

PART X.
MISCELLANEOUS.

PART X.

*Misconduct by Passengers in Steamships.***381.** The following offenders, that is to say—Penalties on drunken
or disorderly
passengers.

- i. Any person who, being drunken or disorderly, has been on that account refused admission into any duly-surveyed steamship by the owner or any person in his employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such steamship :
- ii. Any person who, being drunken or disorderly on board any such steamship, is requested by the owner, or any person in his employ, to leave the same at any place in the province at which he can conveniently so do, and who, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request :
- iii. Any person on board any such steamship, who, after warning by the master or any other officer of the steamship, molests or continues to molest any passenger :
- iv. Any person who, after having been refused admission into any such steamship by the owner or any person in his employ, on account of such steamship being full, and who, after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same :
- v. Any person, having got on board any such steamship, who, upon being requested on the like account by the owner or any person in his employ to leave such steamship before the same has quitted the place at which such person got on board, and who, upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request :
- vi. Any person who travels or attempts to travel in any steamship without having previously paid his fare, and with intent to avoid payment thereof :
- vii. Any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamship beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof :
- viii. Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamship : and,

On persons molesting
passengers.On persons forcing
way on board.Or refusing to quit
the ship.Or travelling without
paying fare.Or wilfully going
beyond proper
distance.Or refusing to quit
ship on reaching his
destination.

ix. Any

*Marine Board and Navigation Act.—1881.***PART X.**

Or not exhibiting
ticket or receipt when
required.

IX. Any person on board any such steamship who does not, when required by the master or other officer of such steamship, either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamship :

Shall, for every such offence, be liable to a penalty not exceeding Five Pounds ; but such liability shall not prejudice the recovery of any fare payable by him.

Penalty for injuring
steamship or
molesting crew.

382. Any person on board any such steamship who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of such steamship, or to obstruct, impede, or molest, the crew or any of them in the navigation or management of such steamship or otherwise in the execution of their duty upon or about such steamship, shall, for every such offence, be liable to a penalty not exceeding Twenty Pounds.

Manner of apprehending offenders.

383. It shall be lawful for the master or other officer of any duly surveyed steamship, and for all persons called by him to his assistance, to detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name and address are unknown to such officer, and to convey such offender, with all convenient dispatch, before some Justice, without any warrant or other authority than this Act ; and such Justice shall have jurisdiction to try the case, and shall proceed, with all convenient dispatch, to the hearing and determining of the complaint against such offender.

Penalty on persons
refusing to give their
name and address.

384. Every person who, having committed any of the offences mentioned in sections 381 and 382, or either of them, refuses, on application of the master of the ship, or of any other person in the employ of the owner thereof, to give his name and address, or who on such application gives a false name or address, shall incur a penalty not exceeding Twenty Pounds, to be paid to the said owner.

Power to refuse or
remove passengers
who are drunk or mis-
conduct themselves.

385. The master of any coast-trade steamship may refuse to receive on board thereof any person who, by reason of drunkenness or otherwise, is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on board, or, if such person is on board, may put him on shore at any convenient place ; and no person so refused admittance or put on shore shall be entitled to the return of any fare he may have paid.

Miscellaneous.

Restriction on deposit
of ballast or rubbish.

386. If any person commits any of the following offences so as, in the opinion of the Board, to be or tend to the injury of navigation, that is to say—

1. Casts or causes to be cast, or suffers to fall, either from on board

*Marine Board and Navigation Act.—1881.***PART X.**

board ship or from land, any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, rubbish, or other substance or thing, on any tidal land, or into any port or tidal water, or into the sea below low watermark within two nautical leagues thereof: or,

- II. Casts or causes to be cast, or suffers to fall, any such substance or thing on land in a position where the same may be liable to fall or descend or be carried or washed down by ordinary or high tides, or by any stream or flow of water, or by any storm or flood, or otherwise, into any port or tidal water, or into the sea: or,
- III. Casts or places, or leaves or causes to be cast, placed, or left, any ship or boat laid by or neglected as unfit for sea service, any floating or other timber, or any other thing, on any tidal lands, or in any port or tidal water, or in the sea:

He shall for each offence incur a penalty not exceeding Fifty Pounds, and shall also be liable to pay the expenses incurred by the Board in the removal of any such substance or thing.

387. It shall be the duty of the master, officer, or person, in charge of any ship registered in the province, if and so far as he can do so without danger to his own ship, crew, and passengers (if any), to proceed to the assistance of any other ship in distress, or that may be flying any of the usual signals of distress, and to save or endeavor to save or assist in saving the life or lives of any person or persons on board any such ship, or on any boat, or on any wreckage belonging or near to any such ship or boat; and if any such master or officer shall knowingly or wilfully commit a breach of this provision he shall be deemed to be guilty of an offence within the meaning of section 136 of this Act, and may be proceeded against and dealt with accordingly.

So far as is consistent with safety, person in charge of a ship must go to the assistance of another ship in distress.

388. The municipal corporation of any town, being a seaport in the colony, and any body corporate, association, or trustees in any such seaport, existing or constituted for any public purposes relating to the government or benefit of persons engaged in the merchant service, or to the management of docks and harbors, or for any other public purposes connected with shipping or navigation, may, with the consent of the Governor, appropriate any lands vested in them, or in trustees for them, as a site or sites for a sailors' home or sailors' homes, and may for that purpose either retain and apply the same accordingly, or convey the same to trustees, with such powers for appointing new trustees and continuing the trust as they think fit.

Corporation, &c. may grant sites for sailors' homes.

389. The name and address of the managing owner for the time being of every ship registered at any port or place in the province shall be registered at the Custom House of the ship's port or registry.

Name of ship's managing owner or agent to be registered.

Where

*Marine Board and Navigation Act.—1881.***PART X.**

Where there is not a managing owner there shall be so registered the name of the ship's agent or other person to whom the management of the ship is intrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of this Act and of "The Merchant Shipping Act, 1854," and any amendment thereof, be under the same obligations and subject to the same liabilities as if he were the managing owner.

If default is made in complying with this section the owner shall be liable, or, if there be more owners than one, each owner shall be liable, in proportion to his interest in the ship, to a penalty not exceeding in the whole One Hundred Pounds each time the ship leaves any port in the province.

Tonnage of British ship.

390. Where any ship has been registered at a port in the United Kingdom or any British possession, the amount of tonnage specified in the certificate of such registry shall, for the purposes of this Act, be deemed to be the tonnage of such ship.

Tonnage of foreign ships and how to be ascertained.

391. In the case of ships belonging to any foreign country which has adopted the provisions of "The Merchant Shipping Act, 1854," in respect of the measurement of tonnage, such ships shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers.

In order to ascertain the tonnage of any ship not registered as aforesaid, as to which any question arises, it shall be lawful for any officer of Customs, or other person appointed in that behalf by the Collector of Customs, at the port in which such ship may then be, to measure such ship, and such officer or person in measuring such ship shall follow the regulations contained in the law regulating the measurement of shipping for the time being in force in the said province.

Marine Board to be the department to carry out provisions of Passengers Acts.

392. The Board shall be the department, after the commencement of this Act, for carrying out the provisions of "The Passengers Act, 1855," or of any Act amending the same, and all powers, functions, and duties, which may be exercised by the Emigration Officer or his assistant, or, in their absence, the chief officer of Customs, by virtue of such Act, shall, after the commencement of this Act, be transferred to and vested in the Board, and the said Board, with the consent of the Treasurer, may, from time to time, appoint such officers as they think fit or necessary for carrying out the said provisions or any of them.

Lights on works.

393. Every person or persons making, constructing, altering, or extending any work on, in, over, through, or across tidal lands or a tidal water, or the sea-shore below high watermark, shall, on or near the work, during the whole time of the making, constructing, altering, or extending thereof, exhibit and keep burning at his or their own expense every night from sunset to sunrise such lights (if any) as the Board from time to time require or approve; and shall

Marine Board and Navigation Act.—1881.

shall also on or near such work, when completed, always maintain, exhibit, and keep burning every night from sunset to sunrise such lights (if any) for the guidance of ships as the Board from time to time require or approve.

PART X.

If any person fails to comply in any respect with the provisions of this section, he shall, for each night on which he so fails, incur a penalty not exceeding Twenty Pounds.

394. In any case in which any damage shall be done to any wharf, crane, truck, landing-steps, warehouse, shed, ship, boat, building, or other work belonging to the Board or to Her Majesty, through the misconduct, negligence, or default of the master of any ship, or any other person on board of any ship, the amount of such damage may be recovered from such master, or the owner of such ship, in a summary way, and in the same manner as any other penalty under this Act; or, at the option of the Board, such ship may be detained until such damage shall have been paid for, or a deposit shall have been made by the master or owner of such ship equal in amount to the claim or demand made by the Board for the estimated amount of damage so done by such ship, which deposit the Board are authorised to receive and retain until the entire amount of such damage shall have been ascertained by the Board and paid to them by the master or owner of such ship, when the said deposit shall be returned to such master or owner. Every such deposit shall be considered to have been made in payment and satisfaction of the claim or demand for damage in respect of which such deposit shall have been made, unless notice that the claim is disputed be given to the Board within seven days after such deposit shall have been made; and after the expiration of seven days next after such deposit shall have been made (unless in the meantime notice be given to the Board that the claim is disputed) the Board may, unless the amount of damage done by such ship shall have been sooner paid, apply such deposit or a sufficient part thereof, in making good such damage, and shall return the residue of such deposit to the said master or owner.

Ships damaging works may be detained until damage paid for or deposit made.

395. If any person shall erect, build, or make any wharf, embankment, or any building, or work, or drive any pile or beacon, or lay down or place any chain, mooring, or buoy within the jurisdiction of the Board without the permission in writing of the said Board, every such person shall, on conviction, be liable to forfeit and pay a penalty not exceeding Fifty Pounds; and any such person who neglects or fails to remove any such wharf, embankment, building, work, pile, beacon, chain, mooring, or buoy so placed, after notice in writing to remove the same has been served on such person by the said Board, he shall for every such offence be liable to forfeit and pay a further penalty not exceeding Five Pounds for every day that he fails or neglects to remove such wharf, embankment, building, work, pile, beacon, chain, mooring, or buoy.

Wharves, buoys, beacons, &c., not to be placed within jurisdiction of Marine Board without permission.

396. If

*Marine Board and Navigation Act.—1881.***PART X.**

Penalty for neglect-
ing to pay dues
and not observing
regulations.

396. If the master, or other person, commanding any ship arriving at any port of the said province, shall in any case fail or neglect to pay any dues and charges, and observe the regulations authorised or made by or under this Act or any part thereof, or any substituted regulations, to be made under the power herein contained, or shall do or commit anything contrary to the true plain meaning of any of the said regulations, such master or other person so offending shall, for every such offence, forfeit and pay a sum of not less than Five Pounds nor more than Fifty Pounds, over and above such payment, whether due, charge, or fine, as the said regulations may impose.

Gazette to be evidence
in certain cases.

397. The production of the *Government Gazette*, purporting to be printed by the Government Printer, in which shall be published any Proclamation, notice, regulation, or by-law, under this Act, shall be taken to be *prima facie* evidence in all Courts of Justice in the said province, of all such facts and circumstances as were or shall be necessary to authorise the issuing of any such Proclamation or notice, or the making of any such regulation or by-law, and every such Proclamation, notice, regulation, or by-law, shall be taken in all such Courts respectively as *prima facie* evidence that such Proclamation, notice, regulation, or by-law has been issued in conformity with this Act.

Licensed ships' sur-
veyors.

398. It shall be lawful for the Board, by regulations made in that behalf and approved by the Governor, to determine the qualification to be required from persons applying to be licensed as surveyors of the hulls and cargoes of ships, whether in respect of their age, skill, character, or otherwise, to grant licences to such persons, and to make regulations for the government of such surveyors, and for insuring their good conduct and effectual performance of their duty; and to fix the terms and conditions of granting licences to such surveyors; and to make regulations for punishing any breach of such regulations as aforesaid, committed by such surveyors, by a withdrawal or suspension of their licences or certificates, as the case may be, or by the infliction of penalties, to be recovered summarily, so that no such penalty to be made exceed the sum of Twenty Pounds, and every such penalty be capable of reduction at the discretion of the Justices by whom the same is inflicted; and to fix the remuneration to be demanded and received by ships' surveyors licensed by such authority, or to alter the mode of remunerating such surveyors: And any person acting as such surveyor as aforesaid, without having received a licence from the Board, shall forfeit, for every such offence, to be recovered in manner aforesaid, a sum not exceeding Twenty Pounds.

Reserves may be
placed under control
of Board.

399. The Governor may, by Proclamation to be published in the *Government Gazette*, place any Government reserve situate within or abutting upon the boundaries of any port under the care, management, and control of the Board, and may, in like manner, resume possession of any such reserve.

400. All

Marine Board and Navigation Act.—1881.

400. All ships entering, remaining in, or leaving any port in that portion of the province known as the Northern Territory shall be exempt from all harbor dues, light dues, and charges imposed by this Act, or by any by-laws or regulations hereunder.

PART X.

Exemption of
Northern Territory,

401. The Governor, on the recommendation of the Board, under the hand of the Secretary, may make regulations respecting the lamp required to be kept by any licensed victualler residing near the seacoast, and such regulations, on being published in the *Government Gazette*, shall free and discharge any licensed victualler acting under the authority thereof from any penalties to which he might be otherwise liable in respect of such lamp.

Governor may make
regulations respecting
lamps.

402. When any seaman is liable to maintain any of his relatives, and during his absence from the province the Destitute Board shall have afforded relief to any such relations, any Superintendent of Mercantile Marine shall, at the request of the Chairman of the Destitute Board, give notice to the said Destitute Board of the return of such seaman to the province, and, upon notice from the said chairman, shall not discharge such seaman within seven days from his arrival in the province.

Powers of Destitute
Board in respect of
seamen.

403. The several Acts specified in the Schedule E hereto are hereby repealed: Provided that any officer appointed in pursuance of any enactment hereby repealed shall be deemed to have been appointed under this Act; and this repeal shall not affect—

Repeal.

- i. Anything done or suffered under any enactment hereby repealed: nor,
- ii. Any right, privilege, power, obligation, or liability acquired, imposed, accrued, or incurred under any enactment hereby repealed: nor,
- iii. Any penalty, forfeiture, or punishment incurred in respect of any offence against any enactment hereby repealed: nor,
- iv. Any investigation, legal proceeding, or remedy, in respect of such right, power, privilege, obligation, liability, penalty, forfeiture, or punishment, as aforesaid, and any such investigation, legal proceeding, or remedy, may be carried on as if this Act had not passed: nor,
- v. Any by-law, rule, or regulation duly made, or any certificate or licence duly granted, under any enactment hereby repealed, subsisting at the time when this Act comes into operation, and the same shall continue in force until cancelled or amended under the authority of this Act, but shall be subject to such provisions of this Act as are applicable thereto respectively.

I reserve this Act for the signification of the Queen's pleasure.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES

SCHEDULES REFERRED TO.

SCHEDULE A.

17 & 18 Vic., c. 104, s. 242.

The Board of Trade may suspend or cancel the certificate (whether of competency or service) of any master or mate in the following cases (that is to say)—

- (1.) If, upon any investigation made in pursuance of the last preceding section, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny :
- (2.) If, upon any investigation conducted under the provisions contained in the Eighth Part of this Act, or upon any investigation made by a Naval Court constituted as hereinafter mentioned, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default :
- (3.) If he is superseded by the order of any Admiralty Court or of any Naval Court as hereinafter mentioned :
- (4.) If he is shown to have been convicted of any offence :
- (5.) If, upon any investigation made by any Court or tribunal authorised, or hereafter to be authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such Court or tribunal to the effect that he has been guilty of any gross act of misconduct, drunkenness, or tyranny ; or that the loss or abandonment of, or serious damage to any ship, or loss of life has been caused by his wrongful act or default, and such report is confirmed by the Governor or person administering the government of such possession :

And every master or mate whose certificate is cancelled or suspended, shall deliver it to the Board of Trade or as it directs ; and in default shall, for each offence, incur a penalty not exceeding Fifty Pounds ; and the Board of Trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

25 and 26 Vic., c. 63, sec. 23.

The following rules shall be observed with respect to the cancellation and suspension of certificates, that is to say—

- (1.) The power of cancelling or suspending the certificate of a master or mate by the two hundred and forty-second section of the principal Act conferred on the Board of Trade shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local Marine Board, Magistrates, Naval Court, Admiralty Court, or other court or tribunal by which the case is investigated or tried, and shall not in future vest in or be exercised by the Board of Trade.
- (2.) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if “certificated engineer,” or “certificated engineers,” were inserted throughout such section after “master” or “masters.”
- (3.) Every such board, court, or tribunal shall, at the conclusion of the case, or as soon afterwards as possible, state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their report.
- (4.) It shall be lawful for the Board of Trade, if they think the justice of the case require it, to issue and return any certificate which has been cancelled or

Marine Board and Navigation Act.—1881.

or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended.

- (5.) The four hundred and thirty-fourth and four hundred and thirty-seventh sections of the principal Act shall be read as if for the word "nautical" were substituted the words "nautical or engineering," and as if for the word "person" and "assessor" respectively were substituted the words "person or persons" and "assessor or assessors" respectively.
- (6.) No certificate shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor in the case of investigations conducted by Justices or a Stipendiary Magistrate unless one assessor at least expresses his concurrence in the report.

SCHEDULE B.

*Regulations for Preventing Collisions at Sea.
Preliminary.*

ART. 1. In the following rules every steamship which is under sail and not under steam is to be considered a sailing ship; and every steamship which is under steam, whether under sail or not, is to be considered a ship under steam.

Rules Concerning Lights.

ART. 2. The lights mentioned in the following articles, numbered 3, 4, 5, 6, 7, 8, 9, 10, and 11, and no others, shall be carried in all weathers, from sunset to sunrise.

ART. 3. A sea-going steamship when under way shall carry:

- (a.) On or in front of the foremast, at a height above the hull of not less than twenty feet, and if the breadth of the ship exceeds twenty then at the height above the hull not less than such breadth, a bright white light, so constructed as to show an uniform and unbroken light over an arc of the horizon of twenty points of the compass; so fixed as to throw the light ten points on each side of the ship, viz., from right ahead to two points abaft the beam on either side; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles:
- (b.) On the starboard side, a green light so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass; so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles:
- (c.) On the port side, a red light, so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass; so fixed as to throw the light from right ahead to two points abaft the beam on the port side; and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles:
- (d.) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

ART. 4. A steamship, when towing another ship, shall, in addition to her side lights, carry two bright white lights in a vertical line one over the other, not less than three feet apart, so as to distinguish her from other steamships. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light which other steamships are required to carry.

ART. 5. A ship, whether a steamship or a sailing ship, when employed either in laying or in picking up a telegraph cable, or which from any accident is not under command, shall at night carry in the same position as the white light which steamships are required to carry, and, if a steamship, in place of that light, three red lights in globular lanterns, each not less than ten inches in diameter, in a vertical line

Marine Board and Navigation Act.—1881.

line one over the other, not less than three feet apart; and shall by day carry in a vertical line one over the other, not less than three feet apart, in front of but not lower than her fore mast-head, three black balls or shapes, each two feet in diameter.

These shapes and lights are to be taken by approaching ships as signals that the ship using them is not under command, and cannot therefore get out of the way.

The above ships, when not making any way through the water, shall not carry the side lights, but when making way shall carry them.

ART. 6. A sailing ship under way, or being towed, shall carry the same lights as are provided by Article 3 for a steamship under way, with the exception of the white light, which she shall never carry.

ART. 7. Whenever, as in the case of small vessels during bad weather, the green and red side lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for use; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collisions, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with proper screens.

ART. 8. A ship, whether a steamship or a sailing ship, when at anchor, shall carry, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light, in a globular lantern of not less than eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all round the horizon, at a distance of at least one mile.

ART. 9. A pilot vessel, when engaged on her station on pilotage duty, shall not carry the lights required for other vessels, but shall carry a white light at the mast-head, visible all round the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed fifteen minutes.

A pilot vessel, when not engaged on her station on pilotage duty, shall carry lights similar to those of other ships.

ART. 10. (a.) Open fishing boats and other open boats when under way shall not be obliged to carry the side lights required for other vessels; but every such boat shall in lieu thereof have ready at hand a lantern with a green glass on the one side, and a red glass on the other side; and on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side.

(b.) A fishing vessel, and an open boat, when at anchor, shall exhibit a bright white light.

(c.) A fishing vessel, when employed in drift net fishing, shall carry on one of her masts two red lights in a vertical line one over the other, not less than three feet apart.

(d.) A trawler at work shall carry on one of her masts two lights in a vertical line one over the other, not less than three feet apart, the upper light red and the lower green, and shall also either carry the side lights required for other vessels, or, if the side lights cannot be carried, have ready at hand the colored lights as provided in Article 7, or a lantern with a red and a green glass as described in paragraph (a) of this Article.

(e.) Fishing vessels and open boats shall not be prevented from using a flare-up in addition, if they desire to do so.

(f.) The lights mentioned in this Article are substituted for those mentioned in the 12th, 13th, and 14th Articles of the Convention between France and England scheduled to the British Sea Fisheries Act, 1868.

(g.) All lights required by this Article, except side lights, shall be in globular lanterns, so constructed as to show all round the horizon.

ART. 11. A ship which is being overtaken by another shall show from her stern to such last-mentioned ship a white light or a flare-up light.

Sound-Signals for Fog, &c.

ART. 12. A steamship shall be provided with a steam whistle or other efficient steam sound-signal, so placed that the sound may not be intercepted by any obstructions, and with an efficient foghorn to be sounded by a bellows or other mechanical means, and also with an efficient bell. A sailing ship shall be provided with a similar foghorn and bell.

In

Marine Board and Navigation Act.—1881.

In fog, mist, or falling snow, whether by day or night, the signals described in this article shall be used as follows; that is to say,

- (a.) A steamship under way shall make with her steam whistle, or other steam sound-signal, at intervals of not more than two minutes, a prolonged blast.
- (b.) A sailing ship under way shall make with her foghorn, at intervals of not more than two minutes when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam three blasts in succession.
- (c.) A steamship and a sailing ship when not under way shall, at intervals of not more than two minutes, ring the bell.

Speed of Ships to be moderate in Fog, &c.

ART. 13. Every ship, whether a sailing ship or steamship, shall, in a fog, mist, or falling snow, go at a moderate speed.

Steering and Sailing Rules.

ART. 14. When two sailing ships are approaching one another so as to involve risk of collision, one of them shall keep out of the way of the other as follows, viz. :—

- (a.) A ship which is running free shall keep out of the way of a ship which is close-hauled.
- (b.) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack.
- (c.) When both are running free with the wind on different sides, the ship which has the wind on the port side shall keep out of the way of the other.
- (d.) When both are running free with the wind on the same side the ship which is to windward shall keep out of the way of the ship which is to leeward.
- (e.) A ship which has the wind aft shall keep out of the way of the other ship.

ART. 15. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other.

This Article only applies to cases where ships are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two ships which must, if both keep on their respective courses, pass clear of each other.

The only cases to which it does apply are, when each of the two ships is end on, or nearly end on, to the other; in other words, to cases in which, by day, each ship sees the mast of the other in a line, or nearly in a line, with her own; and by night, to cases in which each ship is in such a position as to see both the side lights of the other.

It does not apply by day, to cases in which a ship sees another ahead crossing her own course; or by night, to cases where the red light of the one ship is opposed to the red light of the other, or where the green light of one ship is opposed to the green light of the other, or where a red light without a green light, or a green light without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead.

ART. 16. If two ships under steam are crossing, so as to involve risk of collision, the ship which has the other on her starboard side shall keep out of the way of the other.

ART. 17. If two ships, one of which is a sailing ship, and the other a steamship, are proceeding in such direction as to involve risk of collision, the steamship shall keep out of the way of the sailing ship.

ART. 18. Every steamship when approaching another ship, so as to involve risk of collision, shall slacken her speed or stop and reverse if necessary.

ART. 19. In taking any course authorised or required by these regulations, a steamship under way may indicate that course to any other ship which she has in sight by the following signals on her steam whistle, viz.—

One short blast to mean "I am directing my course to starboard":

Two short blasts to mean "I am directing my course to port":

Three short blasts to mean "I am going full speed astern."

The use of these signals is optional; but if they are used, the course of the ship must be in accordance with the signal made.

ART. 20. Notwithstanding anything contained in any preceding Article, every ship, whether a sailing ship or a steamship, overtaking any other, shall keep out of the way of the overtaken ship.

ART. 21. In

Marine Board and Navigation Act.—1881.

ART. 21. In narrow channels every steamship shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the star-board side of such ship.

ART. 22. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course.

ART. 23. In obeying and construing these rules due regard shall be had to all dangers of navigation, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

No ship, under any circumstances, to neglect Proper Precautions.

ART. 24. Nothing in these rules shall exonerate any ship, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Reservation of Rules for Harbors and Inland Navigation.

ART. 25. Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbor, river, or inland navigation.

Special Lights for Squadrons and Convoys.

ART. 25. Nothing in these rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for two or more ships of war, or for ships sailing under convoy.

NOTE.—The above regulations will apply to ships of the following countries, whether within British jurisdiction or not, viz. :—

Austro-Hungary	Italy
Belgium	Netherlands
Chili	Norway
Denmark	Portugal
France	Russia
Germany	Spain
Great Britain	Sweden
Greece	United States.

SCHEDULE C.

*Signals of Distress.**In the Daytime.*

The following signals, numbered 1, 2, and 3, when used or displayed, together or separately, shall be deemed to be signals of distress in the daytime :—

1. A gun fired at intervals of about a minute :
2. The international code of signal of distress indicated by N. C. :
3. The distant signal, consisting of a square flag, having either above or below it a ball, or anything resembling a ball.

At Night.

The following signals, numbered 1, 2, and 3, when used or displayed, together or separately, shall be deemed to be signals of distress at night :—

1. A gun fired at intervals of about a minute :
2. Flames on the ship (as from a burning tar barrel, oil barrel, &c.) :
3. Rockets or shells of any color or description, fired one at a time at short intervals.

SCHEDULE D.

Rules for Measurement of Space occupied by Deck Cargo.

If there be a break, a poop, or any other permanent closed-in space on the upper deck available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows :—Measure the internal mean length of such space in feet, and divide it into two equal parts ; measure at the middle of its height three inside breadths, namely—one at each end and the other at the middle of the length ; then to the sum of the end breadths add
four

Marine Board and Navigation Act.—1881.

four times the middle breadth, and multiply the whole sum by one-third of the common interval between the breadths, the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage deck, ascertained as aforesaid, subject to the following provisos:—First, that nothing shall be added for a closed-in space solely appropriated to the berthing of the crew, and in case of such excess the excess only shall be added; and secondly, that nothing shall be added in respect of any building erected for the shelter of deck passengers, and approved by the Board.

SCHEDULE E.

Act No. 17 of 1860	} The whole.
Act No. 6 of 1873	
Act No. 50 of 1876	
Act No. 130 of 1878	
Act No. 155 of 1879	



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 238.

An Act to consolidate and amend the Laws for the
Protection, Treatment, and Cure of Inebriates,
and for other purposes.

[Assented to, November 18th, 1881.]

WHEREAS it is desirable to provide for the protection, treat-
ment, and cure of inebriates, and to prevent habitual
drunkards from being supplied with intoxicating liquors—Be it
therefore Enacted by the Governor of the Province of South
Australia, with the advice and consent of the Legislative Council
and House of Assembly of the said province, in this present
Parliament assembled, as follows:

Preamble.

1. This Act may be cited as “The Inebriates Act of 1881.”

Short Title.

2. “The Inebriates Act of 1874,” and the “Inebriates Act
Amendment Act, 1878,” shall be and the same are hereby repealed,
except so far as affects any act, matter, or thing done under the
same before the passing of this Act.

Repeal.

3. The following words within inverted commas shall, for the
purposes of this Act, bear the meanings set against them respec-
tively, unless where the context implies otherwise—

Interpretation.

“Intoxicating liquor”—Wine, beer, and all liquors containing
alcohol:

“Incorrigible drunkard”—Any person who has been convicted
of drunkenness three times within a period of six months:

“Dealer in liquors”—Brewer, licensed victualler, winemaker, or
the holder of a wine or beer licence.

4. The

The Inebriates Act.—1881.

Governor may grant
licence for Retreat.

4. The Governor may, subject to any provisions which he thinks fit, grant to any person, or to two or more persons jointly, a licence to keep a house for the protection, treatment, and cure of habitual inebriates, hereinafter called a Retreat, and may from time to time revoke such licence; and such Retreat shall be conducted by a superintendent under the supervision of a committee of management, to consist of eight members to be elected from the contributors thereto.

Contributors' names,
addresses, and amount
of contributions to be
kept.

5. At every such Retreat a book to be called "The Contributors' Book" shall be kept, in which shall be entered the names and addresses of such benevolent persons as may contribute towards the funds for the support of such Retreat, together with the amount of their annual and single donations respectively.

Annual and extra-
ordinary general
meeting of contribu-
tors.

6. Annual general meetings of the contributors to every Retreat shall be held in July of every year, at a day, place, and hour to be named by the committee of management of such Retreat, and extraordinary general meetings of the contributors may be convened at any time by the committee of management, for any purpose connected with the Retreat under their management. And all questions submitted to any such meetings shall be decided by a majority of the votes of the contributors present in person or by proxy, and who vote, the chairman of such meeting being elected thereat, and having a second or casting-vote upon every question on which there is an equality of votes.

Questions decided by
majority.

Chairman to have a
second or casting-
vote.

Contributors' votes.

7. At any general meeting every contributor present in person or by proxy shall be entitled to the number of votes following, that is to say—For an annual donation of not less than One Pound and One Shilling, and of any sum exceeding that amount but being under Five Pounds and Five Shillings, one vote; for an annual donation of Five Pounds and Five Shillings, and of any sum exceeding that amount but being under Ten Pounds and Ten Shillings, two votes; for an annual donation of Ten Pounds and Ten Shillings and upwards, three votes; for a single donation of Ten Pounds, and of any sum exceeding that amount but being under Twenty Pounds, one vote for a period of ten years following such donation; for a single donation of Twenty Pounds, and of any sum exceeding that amount but being under Fifty Pounds, one vote during the life of such contributor; for a single donation of Fifty Pounds, and of any sum exceeding that amount but being under One Hundred Pounds, two votes during the life of such contributor; and for a single donation of One Hundred Pounds and upwards, three votes during the life of such contributor.

Appointment and
retirement of com-
mittee of manage-
ment.

8. The first committee of management of every Retreat shall be elected by ballot at an extraordinary general meeting of the contributors specially convened for that purpose, to be held at a place and hour to be named in the notice calling such meeting, and one-half in number of the members of such committee shall cease to be members

The Inebriates Act.—1881.

members thereof at the next annual general meeting of the contributors. And at each annual general meeting of contributors to every Retreat one-half in number of the members of the committee of management shall retire, and new members shall be elected by ballot in place thereof, the retiring members being eligible for re-election if continuing to be contributors, but no person shall be eligible for election as member of such committee unless he be a contributor of not less than One Pound and One Shilling annually to the funds of such Retreat.

9. Four members of the committee of management of every Retreat shall form a quorum competent to discharge the powers vested in such committee, and any vacancy shall not invalidate any act done by the committee during the continuance of such vacancy.

Quorum of committee.

10. If any member of any committee of management shall die, or resign by letter under his hand addressed to the chairman of the committee, or become lunatic, or be convicted of any treason, felony, or misdemeanor, or be absent for six consecutive meetings from the committee of management without obtaining leave of absence from the committee, his office shall become vacant, and the remaining members of the committee may declare his office vacant, and shall temporarily appoint thereto some contributor to such Retreat until the next annual meeting for the election of members of the committee.

Vacancies, how filled.

11. The committee of management of every Retreat shall have possession of and be vested with all the lands, hereditaments, and other property belonging to such Retreat in trust for the purposes thereof, with full power to purchase and hold other lands, tenements, and hereditaments in the name of such Retreat, in trust for the purposes thereof, and with the consent of the Governor to let, sell, or dispose of any of the said lands, tenements, and hereditaments, and execute conveyances and assurances thereof, but the proceeds arising from any such sale shall not be applied for maintenance of inmates, and shall have the administration of all funds contributed, given, or left to such Retreat by benevolent persons, or in any other manner whatever, and shall also have the care, management, control, and supervision of such Retreat, and the appointment of the superintendent, medical and other officers, nurses, and other attendants as to such committee may seem necessary for the requirements of such Retreat, and from time to time as occasion may require shall have power to suspend or remove the person so appointed, and appoint another in his place or in the place of any sick, deceased, or absent holder of any such appointment.

Powers of committee.

12. In any information or complaint for any offence committed upon or in respect of any property, money, goods, chattels, or effects under the management or control of any committee of management of any Retreat, it shall be sufficient to state or allege the property, money, goods, chattels, or effects to belong to, and any offence

Prosecution of offences.

The Inebriates Act.—1881.

offence to have been done and committed with the intent to injure or defraud “The Committee of Management of the Retreat” (such blank being filled up with the distinctive name of such Retreat), without any further or other name, addition, or description whatever.

Committee of management to make rules.

13. The committee of management of any Retreat may, from time to time, make rules and regulations in respect to all or any of the matters next mentioned, and such rules and regulations so to be made may, from time to time, revoke or vary, that is to say—

- i. For the regulation of its own proceedings, including the appointment of a chairman :
- ii. For determining the validity of disputed elections, and for conducting such elections and all matters connected therewith :
- iii. For regulating the admission of persons into the Retreat on the nomination or recommendation of contributors or otherwise, and of their discharge therefrom :
- iv. For fixing the payment to be made for the care, board, and maintenance of inmates of the Retreat :
- v. For providing employment and fixing the rates of wages to be paid for the labor of the inmates of the Retreat :
- vi. For the moral instruction of the inmates of the Retreat.
- vii. For the maintenance of order, discipline, decency, and cleanliness among the inmates of the Retreat :
- viii. For prescribing the duties of the several officers of any Retreat ; for keeping proper records, books, accounts, and vouchers ; and for providing for the annual publication of abstract of the expenditure, and the amounts contributed, for the information of contributors :
- ix. For all matters affecting the general management, care, control, and superintendence of the Retreat :

Provided that such rules and regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be then sitting, or, if Parliament be not then sitting, within fourteen days after the commencement of the then next Session of Parliament ; and until the making of such rules and regulations under this Act, the rules and regulations contained in Schedule D shall apply to every Retreat.

Regulations to be published in the *Gazette*, and to have force of law.

14. All rules and regulations made under the last preceding section shall be approved by the Governor, and, when so approved, shall have the force of law ; and a copy of such rules and regulations published in the *Government Gazette* shall be received in evidence and judicially noticed, and shall, until the contrary be shown, be deemed

The Inebriates Act.—1881.

deemed sufficient evidence of such rules and regulations, and that the same were duly made and approved.

15. The Governor may at any time revoke any such rule or regulation, and every order by which any such rule or regulation shall be revoked shall be published in the *Government Gazette*, and shall take effect from the time of such publication.

Disallowance of rules and regulations.

16. Any Justice of the Peace, and any other person, on obtaining any order from any Justice of the Peace for that purpose, may, at any hour of the day or night, enter and inspect any Retreat, and examine into the condition of the inmates confined therein, and record, in a book to be kept at each Retreat for that purpose, to be called "The Visiting Justices' Book," such observations as he may think fit respecting the management of such Retreat, and the state of the inmates confined therein; and the Superintendent of every Retreat shall, at least once in every three months, transmit a true copy of every such record to the Chief Secretary.

Justices of Peace may visit Retreat at any time.

17. All notices to any member of the committee of management, superintendent, or any officer of, or contributor to, any Retreat, required to be given by this Act, or the rules and regulations made in pursuance hereof, may be served by the same being transmitted through the post, directed according to an address to be left for that purpose by such member of the committee, superintendent, officer, or contributor, in writing under his hand, at such Retreat.

Notice to contributor and others may be sent by post to registered address.

18. In proving such service as aforesaid, it shall be sufficient to prove that such notice was so directed as aforesaid, and put into a general post office; but nothing herein contained shall be held to render invalid any personal service of any notice.

Proof of service.

19. No notice of any intended committee meeting or election shall be required to be served, either by post or otherwise, on any member of the committee of management, superintendent, or any officer of, or contributor to, any such Retreat as aforesaid, who shall not have left an address in the manner, at the place, and for the purpose hereinbefore mentioned.

Notice to contributors unnecessary, if address not given.

20. Any person desirous of being committed to a Retreat may make application to any Justice, and such Justice, if he be satisfied that the applicant has habitually used excessive quantities of intoxicating liquor, may make, in the form contained in the Schedule hereto annexed, or to the like effect, an order authorising the apprehension of such person, his conveyance to some Retreat, and his delivery to the superintendent or other officer thereof, and his reception, detention, and curative treatment therein for any term not exceeding twelve months.

Justice may order apprehension of habitual drunkard on his own application.

21. Upon the application of any relation or friend of any person addicted to the habitual use in excess of intoxicating liquor, any
Judge

Judge, Special Magistrate, or Justices may

The Inebriates Act.—1881.

summon habitual
drunkard to appear.

Judge, Special Magistrate, or two Justices of the Peace may, upon proof to him or them of the reasonableness of the application, summons such persons to appear before him or them on a day named to show cause why such person should not be committed to a Retreat.

May order apprehension of drunkard, and conveyance to Retreat.

22. If, upon the hearing of such summons in the presence or the absence of the inebriate, it appears that by reason of his abuse of intoxicating liquor the person summoned is unable to control himself, or is not supporting his family, or is incapable of managing his affairs, or is dangerous to himself or to others, or is suffering under or recovering from *delirium tremens*, or chronic alcoholism, or is in imminent danger of death from the continuous use of such intoxicating liquor, and if two medical practitioners certify in writing, in the form in the Schedule C hereto, or to the like effect, that such person requires curative treatment in a Retreat, the Judge, Special Magistrate, or Justices may make an order authorising the apprehension of such person, his conveyance to some Retreat, and his delivery to the superintendent or other proper officer thereof, and his reception, detention, and curative treatment therein, for any term not exceeding twelve months, or such summons may be dismissed with costs as against the applicant.

Incorrigible drunkard may be committed to Retreat for twelve months.

23. Any person charged before a Special Magistrate or two Justices of the Peace with being an incorrigible drunkard shall, on conviction thereof, be liable to be committed by the order of such Magistrate or Justices to any Retreat, and kept therein for any term not exceeding twelve months.

Detention of persons in Retreat.

24. Every person received into a Retreat under any such order as is required by this Act, may be detained therein until he be discharged as hereinafter provided; and in case of escape may, by virtue of such order, be re-taken at any time after his escape by any officer or servant belonging to such Retreat, or by any constable, or by any person authorised in writing in that behalf by the superintendent or other manager of the Retreat, and be conveyed to such Retreat and received and detained therein.

Escape from.

Judge, &c., may direct payment as to costs of inebriate.

25. The Judge, Special Magistrate, or Justices, as aforesaid, may, if he or they think fit, by the same or a different order, direct the payment by the inebriate of all costs and charges of the proceedings before him or them, and of the conveyance of the inebriate to a Retreat, and of his maintenance and treatment therein; and the amounts so ordered to be paid shall be deemed to be a judgment debt due by the person liable thereto to the parties in such order mentioned.

Committee may discharge inebriate before expiration of term ordered.

26. The committee of management of the Retreat may, at any time before the expiration of the term specified in the order of detention, discharge any person so detained with the approval of the medical officer attending such Retreat: Provided always that no patient be discharged until he have been in the Retreat at least one month.

27. The

The Inebriates Act.—1881.

27. The wife or any relative of any person addicted to the habitual use, in excess, of intoxicating liquors, so as to be injurious to himself or his family, may, and any police officer upon being called upon so to do by any Justice of the Peace shall, obtain a Justice's summons calling upon such person to show cause before a Special Magistrate or two Justices of the Peace why the said Magistrates or Justices should not issue a certificate that such person is addicted to the habitual use, in excess, of intoxicating liquor, so as to be injurious to himself or his family; which certificate shall be issued upon hearing evidence as well of the person informed against as of the persons called by the informers, and, if issued, shall be of force for twelve months.

Certificate of Justices
issued upon oath

28. Any dealer in liquors or other person who shall be proved to have supplied any person in a state of intoxication, or a person addicted to the habitual use, in excess, of intoxicating liquor, so as to be injurious to himself or his family, who shall have been certified as such pursuant to the last preceding section of this Act (after being served with a copy of such certificate), with intoxicating liquor, shall, upon proof thereof, forfeit and pay the sum of Five Pounds for the first offence, and Ten Pounds for the second or any subsequent offence, and for the third offence by a person holding a licence for the sale of liquors, he shall be deprived thereof, and shall not at any time thereafter be allowed to hold a licence.

Dealers in liquors, &c.,
supplying drunken
persons with intoxi-
cating liquor to be
subject to penalties.

29. If any inmate of any Retreat shall abscond or escape therefrom before the expiration of the term specified in the order of detention, or shall wilfully damage or destroy any property belonging to any such Retreat, or shall be guilty of insubordination or wilful disobedience to the rules of such Retreat, such inmate may be brought before any two or more Justices of the Peace for the said province, who shall make inquiry as to the complaint made against such inmate, and, upon proof of such complaint, may order such inmate to be imprisoned for any term not exceeding three months with or without hard labor: And such inmate shall, at the termination of such imprisonment, be sent back to the Retreat and detained therein for the remainder of the term mentioned in the order of detention.

Inmate absconding or
destroying property

30. Any person, whether an inmate or not, who shall directly or indirectly counsel, or induce by letter or otherwise, any inmate of any Retreat to abscond or escape therefrom before the expiration of the term specified in the order of detention, or before such inmate shall have been regularly discharged, or who shall aid or abet any such inmate in so escaping or absconding, or who, knowing any such inmate to have so absconded or escaped, shall harbor or conceal, or assist in harboring or concealing, such inmate, or prevent him from returning to such Retreat, shall, on conviction, forfeit and pay any sum not exceeding Twenty Pounds, or, at the discretion of the Justices, may be imprisoned for any term not exceeding two months, with or without hard labor.

Punishment for aid-
ing absconders.

31. In

The Inebriates Act.—1881.

Inmates unable to pay, to work for board, &c.

31. In the event of any inmate being unable to pay for his care, cure, board, and maintenance in any Retreat as aforesaid, he shall be employed in such capacity as the committee of management or superintendent may decide, at a fair rate of wages, from which shall be deducted all costs and charges due to the said Retreat, and the balance, if any, retained for the benefit of the inmate or the support of his family.

Order to be sufficient authority, and members of committee or officers not liable for damages for acting under orders of Judge, &c.

32. Every order made in pursuance of this Act shall be a sufficient authority to all persons acting under and in conformity to such order; and no member of the committee of management, superintendent, or other officer, shall be liable to action for damages for acting under the orders of any Judge, Special Magistrate, or Justices under this Act.

Appeal to Local Court.

33. There shall be an appeal from any order of Justices of the Peace made under the provisions hereinbefore contained, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceeding of such appeal shall be conducted in manner appointed by the Ordinance No. 6 of 1850, for appeals to Local Courts; but such Local Court at Adelaide aforesaid may make such order as to payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

Superintendent of Retreat to be a special constable.

34. For all the purposes of this Act, the superintendent of any Retreat as aforesaid shall be a special constable.

Forms in Schedules to be valid in law.

35. The several forms in the Schedules to this Act, or forms to the like effect, shall be deemed good, valid, and sufficient in law.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES.

The Inebriates Act.—1881.

SCHEDULES.

A.

[The Inebriates Act of 1881.]

Form of Commitment upon Voluntary Application.

To _____ and all Constables and peace officers, and to the Superintendent or other proper officer of the Retreat for Inebriates, at _____

Whereas on the _____ day of _____, 188____, A. B., of _____, came before me, C. D., one of Her Majesty's Justices of the Peace in and for the Province of South Australia, and applied to be committed under the provisions of "The Inebriates Act of 1881," to the Retreat situated at _____: And whereas it appears to me that the said A. B. has habitually and excessively used intoxicating liquor: Now therefore I, the said C. D., one of Her Majesty's Justices of the Peace as aforesaid, do, in pursuance of "The Inebriates Act of 1881," and by the authority on me thereby conferred, hereby order that you, the said constables or peace officers, apprehend the said A. B., and convey him to the said Retreat, and deliver him to the said Superintendent or other officer thereof, and that you, the said Superintendent or other officer, receive him into your custody in the said Retreat, and him there safely keep and submit to curative treatment for the term of _____ months, unless he be sooner discharged according to law: And I hereby by this order direct that the said A. B. shall pay to E. F. the sum of £ _____ for the expenses of his conveyance to the said Retreat, and to the Superintendent the sum of £ _____ for every month of his stay therein, being the amount of the fees in that behalf ordered to be paid by the regulations made in pursuance of "The Inebriates Act of 1881." And for these this shall be a sufficient warrant.

Given under my hand and seal this _____ day of _____, 18____.
C. D., Justice of the Peace.

B.

[The Inebriates Act of 1881.]

Medical Certificate.

We, the undersigned duly qualified medical practitioners, do hereby certify that we have examined _____ of _____ and that in our opinion the said _____ requires curative treatment in a Retreat.

C.

[The Inebriates Act of 1881.]

Order of Detention.

South [Royal Arms.] Australia.

Whereas on the _____ day of _____ application was made to _____ by _____ of _____ in the said province for a summons calling upon the said _____ to appear before _____ at _____ in the said province on the _____ day of _____ 18____ to show cause why he should not be committed to a Retreat under the provisions of "The Inebriates Act of 1881:" and whereas the reasonableness of the said application being proved to _____ by the evidence of _____ did therefore issue _____ summons to the said _____ to appear before _____ at _____ in the said province on the _____ day of _____ 18____: and whereas it now manifestly appears to _____ having heard the evidence adduced in support of the said summons in the _____ of the said _____ that

The Inebriates Act.—1881.

that by reason of his abuse of intoxicating liquor the said
 is unable to control himself and is incapable of managing his affairs
 from the continuous use of such intoxicating liquors: and two medical practitioners,
 to wit. and having
 certified in writing that the said requires curative
 treatment in a Retreat: now, therefore, do order that the said
 be apprehended and conveyed to the Retreat, and be there
 delivered to the Superintendent or other proper officer thereof; and that the said
 be there received, detained, and subjected to curative
 treatment therein for and do further order and adjudge
 that the said of do pay to
 of in the said province the sum of
 for his costs in this behalf, and the sum of
 for the costs of the conveyance of the said
 to the said Retreat; and the sum of for his maintenance
 and treatment therein.
 Given under hand and seal at in the said province,
 the day of 18

D.

[The Inebriates Act of 1881.]

Rules and Regulations.

1. All inmates must strictly conform to the rules, regulations, and the Superintendent's directions, and no inmate shall go outside the Retreat boundary without his permission.

2. Inmates are expected to be punctual to the time set apart for meals, for retiring to rest, and for rising in the mornings, and for leaving their bedrooms, and in general to observe the discipline of the Retreat.

3. Any servant of the Retreat permitting alcoholic liquors to be placed within reach of the inmates, under any pretence whatever, except when ordered by the Medical Officer, shall be immediately dismissed.

4. Inmates shall not mar or deface the walls, ceilings, or any part of the Retreat buildings, nor shall they be permitted to frequent those parts of the Retreat devoted to culinary or other domestic purposes, nor shall they be allowed to parley with or pay fees to any of the servants or employes of the Institution; and the use of profane, indecent, or indecorous language, is strictly prohibited.

5. On the admission of an inmate, the following questions are required to be answered by the inmate, or his or her friend, if possible:—

- I. Applicant's name in full.
- II. Birthplace.
- III. Residence.
- IV. Education, whether can read and write.
- V. Profession or occupation.
- VI. Age.
- VII. Married or single.
- VIII. If married, how many children living.
- IX. Have parents been intemperate.
- X. How long has he been an excessive drinker, and has his drinking been constant and regular, or periodical.
- XI. Is he violent, morose, or cheerful when intoxicated.
- XII. Has he ever had *delirium tremens*, if so, how many attacks.
- XIII. What means has he, or his friends, to pay for his board, attendance, and cure.

6. Visitors are not allowed to inmates' bedrooms, except during illness.

7. Visitors must produce authority in writing from the inmate or his responsible friends.

8. Unless in urgent cases visits must be confined to Tuesdays and Fridays.

9. All parcels intended for inmates must be first submitted to the Superintendent.

10. An inventory to be taken of all money, property, and clothing of every inmate

The Inebriates Act.—1881.

inmate on admission, which shall be placed under the charge of the Superintendent, and returned on discharge.

11. No inmate is allowed to enter another's bedroom uninvited, nor under any circumstance after ten o'clock p.m.

12. The morning bell to be rung, and the outer door to be opened at six in summer, and seven in winter, a.m. Breakfast at eight o'clock a.m.; dinner at one o'clock p.m.; tea at six p.m.; except on Sundays, tea at five o'clock p.m.

13. The night bell to be rung at a quarter before ten p.m., and the outer door to be locked at ten o'clock p.m. Lights to be extinguished (except by permission) at half-past ten o'clock p.m.

14. Servants are not allowed to do any act or errand outside the Retreat for inmates without the permission of the Superintendent.

15. Inmates are not allowed to assemble in any attendant's room.

16. No communication between male and female inmates allowed.

17. No fees or money presents are to be given to or received by any hired servant of the Retreat.

18. The fees payable by inmates of the Belair Inebriates' Retreat, or his or her friend, shall not be less than one pound per week, or more than four pounds per week; and that the first payment be paid on the day of admission for four weeks in advance, and all future payments to be made every month of four weeks in advance.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to amend an Act intituled "An Act to incorporate a certain Company or Society called 'The Adelaide Marine and Fire Assurance Company,' to limit the liability of the members thereof, and otherwise to regulate and provide for the management of the said Company."

[*Assented to, September 28th, 1881.*]

WHEREAS by an Act of the Parliament of the Province of South Australia, passed in the Session holden in the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, intituled "An Act to incorporate a certain Company or Society called the Adelaide Marine and Fire Assurance Company," to limit the liability of the members thereof and otherwise to regulate and provide for the management of the said Company, the shareholders in the capital of the said Company were incorporated for certain purposes in the said Act appearing, and it was amongst other things by the said Act enacted that the several covenants, clauses, articles, conditions, stipulations, regulations, and provisions contained in the deed of settlement of the said Company, and in any supplemental deed of settlement of the said Company, and the several regulations, alterations, and provisions to be made under or by virtue or in pursuance thereof, were and should be deemed and considered to be, and should be, the by-laws for the time being of the said Corporation (save and except in so far as any of them are or shall be altered, varied, or repealed by, or should or might be inconsistent or incompatible with or repugnant to any of the provisions of the said recited Act

The Adelaide Marine and Fire Assurance Company Act Amendment Act.—1881.

Act, or of any other laws or statutes in force in the said province), subject nevertheless to be, and the same might be, amended, altered, or repealed, either wholly or in part, in the manner provided in and by the said deed of settlement and any such supplemental deed of settlement as aforesaid: And whereas by the said Act of Parliament it was enacted that the total amount of the debts, engagements, and liabilities of the said Company within the said province should not exceed One Million Five Hundred Thousand Pounds: And whereas, from time to time, the said deed of settlement has been amended, altered, varied, and repealed in manner provided by the said deed of settlement, and it is expedient that such deed should be further amended, altered, varied, and repealed in accordance with the object and intentions of this Act: And whereas it was by the said deed of settlement agreed that the capital of the Company should be Two Hundred and Fifty-five Thousand Pounds, to be divided into and contributed in twenty-five thousand five hundred shares of Ten Pounds each, payable by the shareholders by instalments or calls to be made by the Directors as therein expressed: And whereas by the said deed of settlement provision has been made for the management of the affairs and business of the said Company by a Board of Directors: And whereas the whole of the shares of the said Company have been subscribed for, and the sum of Three Pounds Thirteen Shillings has been paid up in respect of each of such shares: And whereas it is expedient to increase the capital of the said Company, and to provide for the further increase thereof when and at such times as the same may be deemed necessary: And whereas it is expedient that the total amount of the debts, engagements, and liabilities of the said Company should not be limited to the amount stated in the said recited Act, but that such limit should be increased to a sum proportionate to the amount of capital for the time being of the said Company: And whereas in the said recited Act no provision was made for the future increase of the capital and further extension of the business of the said Company, and it is necessary to obtain the sanction of Parliament to such increase as aforesaid—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Short title.

1. This Act may be cited as “The Adelaide Marine and Fire Assurance Company Act Amendment Act, 1881.”

Increase of capital.

2. Notwithstanding anything in the said recited Act, or in the deed and supplemental deeds of settlement of the said Company contained, the present capital of the Adelaide Marine and Fire Assurance Company shall be increased to the sum of Four Hundred Thousand Pounds, by the issue of fourteen thousand five hundred shares of Ten Pounds each, and may be further increased from time to time as any special general meeting of the shareholders of the Company called together for the purpose may determine, and such increased

The Adelaide Marine and Fire Assurance Company Act Amendment Act.—1881.

increased or additional capital shall be considered as part of the capital of the said Company, and shall be apportioned and disposed of in such manner as may be determined by a resolution of any special general meeting of the shareholders of the said Company called together for the purpose, and the clauses and provisions of the said deed and supplemental deeds of settlement so far as applicable shall be applied to the said increased or additional capital.

3. Clause 8 in the said recited Act is hereby repealed, and from and after the coming into operation of this Act the total amount of the debts, engagements, and liabilities of the said Corporation shall not exceed the sum of Two Million Five Hundred Thousand Pounds sterling, or such other sum not exceeding Five Million Pounds sterling in all, as may be determined by a resolution of the shareholders of the Company at any special general meeting called for the purpose.

Clause 8 of former Act repealed.

4. From and after the coming into operation of this Act, the said deed and supplemental deeds of settlement of the said Company, and the several covenants, clauses, articles, conditions, stipulations, regulations, and provisions therein contained shall be read and construed and take effect as if—

Alteration of deed of settlement.

The words “Two Hundred and Fifty-five Thousand Pounds” in the fourth clause of the said deed of settlement were struck out, and the words “Four Hundred Thousand Pounds” were inserted in lieu thereof, and the words “twenty-five thousand five hundred shares” in the same clause were struck out, and the words “forty thousand shares” were inserted in lieu thereof.

Clause 4.

The words “of Eight Pounds and Fourteen Shillings” in the fifty-eighth clause were struck out, and the word “unpaid” inserted in lieu thereof.

Clause 58.

5. Nothing in this Act contained shall prejudice or affect the rights or remedies of the said Company against any individual shareholder or against any other person or persons whomsoever, or the rights and remedies of any individual shareholder or other person or persons against the Company, or prejudice the shareholder or other persons as between themselves, as private individuals, in respect of any act, business, matter, or thing that may before this Act shall come into operation have been done, entered into, or have arisen in pursuance of, under, or by reason of the said Act or deed or supplemental deeds of settlement, or any clause or clauses thereof respectively.

Saving clause.

6. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others within the said province, without being specially pleaded.

Public Act.

7. This

*The Adelaide Marine and Fire Assurance Company Act Amendment
Act.—1881.*

This Act and former
Act of the Company
to be read as one Act.

7. This Act and the said recited Act, except so far as the same is hereby amended or may be held to be repealed, shall be read together as one Act.

In the name and on behalf of Her Majesty, I hereby assent to
this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to authorise the Adelaide and Suburban Tramway Company, Limited, to construct, maintain, and work Tramways for horse traction, and other motive power, in and between certain parts of the City of Adelaide and the Townships of Walkerville, Stepney, East Adelaide, and other places adjacent thereto, and in the neighborhood thereof, and for other purposes.

[*Assented to, November 18th, 1881.*]

WHEREAS the construction, maintenance, and working of tramways in and between certain parts of the City of Adelaide and the Town of Kensington and Norwood, and places suburban thereto, has been of great local and public advantage: And whereas the extension of such tramways, in such a manner as not to impede or injure ordinary traffic, to the Townships of Walkerville, East Adelaide, Stepney, and other places adjacent thereto, and in the neighborhood thereof, would be productive of further local and public benefit and convenience: And whereas a certain Joint Stock Company, registered under "The Companies Act, 1864," as "The Adelaide and Suburban Tramway Company, Limited," is willing and ready, at its own expense, to construct, maintain, and work the said extended tramways, in addition to and in conjunction with their said present lines of tramway, but the authority of Parliament is requisite to enable the Company so to do, and it is therefore desirable to confer on the Company all rights, powers, privileges, and immunities necessary or convenient for the construction, maintenance, and working of such extended lines

Preamble

Adelaide and Suburban Tramways Extension Act.—1881.

lines of tramway—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Short title.

1. This Act may for all purposes be cited as the “Adelaide and Suburban Tramways Extension Act, 1881.”

Incorporation.

2. The “Lands Clauses Consolidation Act” and the “Adelaide and Suburban Tramways Act, 1876,” shall be incorporated with and form part of this Act.

Interpretation.

3. In the construction of this Act, unless there shall be something in the subject matter or context repugnant to such meanings—

The meanings which have been assigned by the “Lands Clauses Consolidation Act” to certain words and expressions shall be attributed to such words and expressions whenever they occur herein:

The expression “the Company” shall mean the “Adelaide and Suburban Tramway Company, Limited,” with such extended rights, privileges, duties, and liabilities as are in accordance with the further powers by this Act conferred on the said Company:

The expression “the tramways” shall mean the tramways by this Act authorised, or any part thereof:

The expression “the deposited plans” shall mean the plan of the tramways and the book of reference thereto, which were, on the twenty-third day of April, one thousand eight hundred and eighty-one, deposited in the office of the said Examiner of Private Bills; and at the office of the Surveyor-General, at the Government Office, Adelaide; and at the office of the Town Clerk of Adelaide, at Adelaide; and at the office of the Town Clerk of Kensington and Norwood, at Norwood; and at the office of the Clerk of the District Council of Stepney; and at the office of the Clerk of the District Council of Walkerville:

The expression “street” shall mean any public street, road, foot-path, or place along or across which the tramways are authorised to be laid:

The expression “the street authority” shall mean the persons having the control or management of the street in respect of which such expression shall be used, if the same shall be used in respect of any particular street; but if such expression shall not be used in respect of any particular street, it shall mean the persons having the control of any street:

The expression the “principal Act” shall mean the “Adelaide and Suburban Tramways Act, 1876”:

The

Adelaide and Suburban Tramways Extension Act.—1881.

The expression “the deposited plans” shall mean as well the plans and sections of the tramways, and the book of reference thereto, which were, on the twenty-third day of April, one thousand eight hundred and eighty-one, deposited in the office of the Examiner of Private Bills, and at the office of the Surveyor-General, at the Government Offices, Adelaide, and at the office of the Town Clerk of Adelaide, at Adelaide, and at the office of the Town Clerk of Kensington and Norwood, at Norwood, and at the office of the Clerk of the District Council of Stepney, and at the office of the Clerk of the District Council of Walkerville, as the plans and sections of the tramways, and the book of reference thereto, which were, on the ninth day of July, one thousand eight hundred and eighty-one, deposited in the said office of the Examiner of Private Bills, and at the said office of the Surveyor-General, and at the said office of the Town Clerk of Adelaide.

4. The said plans deposited on the twenty-third day of April, one thousand eight hundred and eighty-one, shall have effect as amended, altered, or varied by the said plans deposited on the ninth day of July, one thousand eight hundred and eighty-one.

Plans to have effect as amended.

5. Subject to the provisions of this Act, the Company may make, form, lay down, construct, maintain, and work on the lines shown in the deposited plans the tramways hereinafter described, and also the curves and turnouts shown on the said deposited plans, or such portion thereof as the Company may think expedient, with all proper rails, plates, works, sidings, junctions, stations, approaches, and conveniences connected therewith, and may enter upon, purchase, take, and use such of the lands delineated and described in the deposited plans as they may require for such purposes, and such of the said curves as shall have heretofore been constructed by the said Company are hereby authorised to be maintained.

Power to make tramways.

6. The tramways hereinbefore referred to and authorised by this Act are as follows—

Description of tramways.

A tramway No. 1. Three miles and seven furlongs in length, commencing at a point on the present line of the Company at the junction of the King William Road and the Avenue Road in Adelaide, and thence passing as a single line along Avenue Road to the corner of Roberts-place and Kermodestreet, and thence passing as a double line along Finniss-street, Jerningham-street, Melbourne-street, and Mann-terrace as far as Stanley-street; and thence passing as a single line along Stanley-street Road and Gilberton Road to the junction of the said Gilberton Road with the Walkerville Road; thence passing as a double line along the Walkerville Road, William-street and Smith-street, Walkerville, as far as allotment No. 58.

A Tramway No. 2. One furlong one chain in length, commencing

Adelaide and Suburban Tramways Extension Act.—1881.

mencing at the present line of the Company at the junction of John-street and Kermode-street, and thence passing as a single line along Kermode-street to Roberts-place, where it joins the aforesaid tramway No. 1.

A Tramway No. 3. Two furlongs one chain and eleven yards in length, commencing at a point on tramway No. 1 situated at the corner of Stanley-street and Mann-terrace, and passing as a single line along Mann-terrace and Mann-terrace Road, to a point on tramway No. 1 at the junction of Gilberton Road with the Walkerville Road.

A Tramway No. 4. Two miles one furlong in length, commencing at a point on the present line of the Company at that corner of Kent-terrace and Rundle-street, Kent Town, thence passing as a double line along Kent-terrace and the Magill Road as far as allotment No. 4, Maylands, thence as a single line as far as the Government Road between Kensington and Payneham.

A Tramway No. 5. Seven furlongs three chains, or thereabouts, in length, commencing at a point on tramway No. 4 at the corner of Nelson-street, Stepney, and the Magill Road, and passing as a single line through Nelson-street and across the Main North-Eastern Road, and along Walkerville Road, East Adelaide, to allotment 540, at the corner of the said Walkerville Road and Fifth Avenue.

A Tramway No. 6. Being one mile eight chains, or thereabouts, in length, commencing at a point on tramway No. 4 at the junction of Kent-terrace and the Magill Road, and running as a double line along the Main North-Eastern Road as far as Nelson Street and the Walkerville Road, where it unites with tramway No. 5 at the corner of the Walkerville Road and at the corner of Nelson-street.

A Tramway, No. 7, being three furlongs and six chains or thereabouts in length, commencing at a point on the present line of the Company at the north-western corner of Hindmarsh-square, Adelaide, and running as a single line along the northern side of the said square, the eastern side of the said square as far as Grenfell-street, the part of Grenfell-street between Hindmarsh-square and East-terrace, and the part of East-terrace between Grenfell-street and Rundle-street, to a point on the existing line of the Company at the junction of East-terrace and Rundle Road.

Removal of portion
of existing lines.

7. The Company shall take up and remove the turn-out at present existing in Rundle-street, Adelaide, authorised by the principal Act, as shown in the said plan, deposited on the ninth day of July, one thousand eight hundred and eighty-one, and may also take up and remove that portion of the existing line of the Company in Pulteney-street aforesaid, shown on such lastly-mentioned plan, which
is

Adelaide and Suburban Tramways Extension Act.—1881.

is six chains in length, or thereabouts, and commences at a point on the present lines of the Company at the north-western corner of Hindmarsh-square, Adelaide, and runs along Pulteney-street as far as Rundle-street aforesaid, and may take up and remove all the rails, plates, sleepers, guards, and other materials connected with the turn-out and line aforesaid, and may do and perform all acts and things necessary for such purposes: Provided that the Company shall thereupon fill in the ground and make good the surface, and generally restore the portion of the street taken up for the purposes aforesaid, and remove all surplus rubbish occasioned thereby.

8. The centre line of every tramway shall be the centre line of the street in which such tramway shall be laid, or shall run parallel therewith at a distance of not less than five feet four inches therefrom, except where the line of such tramway shall be a curve as shown in the deposited plans.

Centre lines of tramways.

9. In all cases when the tramways or any part thereof are proposed to be constructed on roads which are only partially made and metalled, the Company shall, before constructing the tramways along such roads, make and metal so much of the roadway as shall leave a clear metalled space of not less than twelve feet between the lines if a double line of tramway is proposed to be made, or on one side of the line if a single line of tramway is proposed to be made; such additional width of roadway to be made and metalled to the satisfaction of the road authorities.

Company to widen roads partially made.

10. The tramways shall be completed fit for traffic within eighteen months from the passing of this Act, or within such further time not exceeding twelve months (if any) from the end of such eighteen months as the Governor may see fit to allow, and upon the expiration of such eighteen months or of such further time (if any) as may have been allowed as aforesaid, all the powers by this Act granted the Company shall cease to be exercisable, unless in the meantime all the tramways authorised by this Act shall have been constructed.

Completion of tramway.

11. Every tramway line shall be constructed and maintained with two rails to be laid at a distance of four feet eight and one-half inches from each other, and shall be constructed and maintained in such a manner that the uppermost surface of every rail shall be on a level with the surface of the street, and the rails used in the construction of every tramway shall be of iron or steel, and of the weight of not less than twenty pounds to the yard, and such rails shall be grooved, the groove not exceeding one and one-quarter inches in width; and all such rails shall be guarded on the outer side thereof with wooden rails or blocks of stone laid close to and parallel with the rail, to be constructed to the satisfaction of the street authorities; and in the case of the rails used in the construction of the aforesaid tramway No. 7, the groove may be of the width of one and a-half inches.

Line to be guarded with wood or stone.

12. The

Adelaide and Suburban Tramways Extension Act.—1881.

Tramcars to have
flange wheels.

12. The Company shall use on the tramways cars with flange wheels or wheels specially or particularly adapted to run on a grooved rail, and no rail shall be used in the construction of any tramway which will have an opening of greater width than one and one-quarter inches in the widest part.

Motive power.

13. The cars used on the said tramways shall be drawn by horses.

Maintenance of
tramways.

14. The Company shall at all times keep the tramways in good repair and working order, and after the end of the said eighteen months, or of such further time (if any) as may have been allowed, pursuant to the preceding section for constructing the tramways, the Company shall provide cars in sufficient numbers to travel along the tramways hereby authorised between the respective termini thereof at least ten times each way between the hours of seven in the morning and ten in the evening of every day, except Sunday.

Tolls and charges.

15. The Company may demand and take for every passenger conveyed upon the tramways, for the use of the tramways and car and motive power and every other expense incidental to the conveyance of such passenger, any tolls or charges not exceeding the sum of Twopence per mile, but so that, for every passenger conveyed for a distance less than three miles, the Company may demand tolls and charges as for three miles, and for every fraction of a mile beyond three miles, the Company may demand tolls and charges as for a mile.

Security from
treasurer.

16. The Company prior to engaging any treasurer, manager, superintendent, receiver, ticket clerk, collector, inspector, or other servant, to be entrusted with the collection or custody of any moneys in connection with or for the use of the tramways hereby authorised, shall receive from such servant entrusted as aforesaid, a bond, with sufficient sureties, conditioned in such an amount as the Directors of the Company may deem sufficient as security for the repayment of any moneys which shall be found wanting or deficient when the accounts and receipts of such servant come to be investigated.

Payment of capital
subscribed to be com-
pelled.

17. All moneys at any time becoming due to the Company in respect of calls made upon shares not fully paid up, but subscribed for the purpose of constructing and maintaining the tramways hereby authorised, shall be debts due by such shareholders respectively, and recoverable by action accordingly.

Accounts to be kept.

18. The said Company shall cause to be kept by competent officials full and particular accounts of all moneys received by the Company, whether by reason of the fees, rates, tolls, and charges hereby authorised, or in any other manner whatsoever, and shall keep full and particular accounts of all moneys, outgoings, and debts, expended or owing by or on behalf of the said Company in connection with the said tramways, and shall once at least in every year cause a balance

Adelaide and Suburban Tramways Extension Act.—1881.

balance to be made of all such accounts, which balance, and the report therewith, shall be audited in manner hereinafter mentioned and provided.

19. The Company shall, once at least in every year, cause such accounts to be submitted to an auditor or auditors, to be appointed by the shareholders of the Company; and such auditor or auditors shall, for the purpose of assisting him or them in the preparation of a full, true, and impartial report, be supplied by the Directors of the Company with all books, accounts, memoranda, and vouchers relating in anywise to the affairs of the Company.

Accounts to be audited.

20. The remuneration of such auditor or auditors shall be fixed by the shareholders of the Company at the time of his or their appointment, and shall be payable out of the funds of the Company.

Remuneration of auditors.

21. The Company shall also, once in every year at the least, cause to be prepared an abstract of such accounts, showing the total amount realised by the said fees, tolls, charges, and other payments hereby authorised to be made, and also of all outgoings, debts, expenses, and liabilities incurred by or on behalf of the Company, together with a statement of the balance of the account, duly audited, which statement shall be signed and approved by such auditor or auditors, and by the chairman of the directors of the Company; and the Company shall cause to be transmitted one copy of such account, free of charge, to the Auditor-General of the said province, on or before the twenty-eighth day of February in every year.

Abstract of account to be annually transmitted to Auditor-General.

22. In the event of the Company not forwarding such account at the time hereinbefore provided, they shall forfeit and pay a sum or penalty of Five Pounds for every day during which the said account is withheld from the Auditor-General.

Penalty.

23. The said account shall, after due inspection by the Auditor-General, be filed by him in his office, and shall be open to the inspection of the public at all reasonable hours on payment of the sum of One Shilling.

Auditor-General to file abstract.

24. The Company shall not have power to raise by loan, mortgage, bill of sale, or otherwise, any sum or sums exceeding one-third part of the capital of the Company, nor shall it be lawful for the Company, or any person or persons acting on its behalf, to raise any sum or sums whatsoever, whether on loan, mortgage, bill of sale, or otherwise, unless and until an amount equal to one-half of the capital of the Company shall have been fully paid up by the shareholders thereof.

Restrictions as to mortgage.

25. After the lapse of eighteen months from the passing of this Act, the shareholders of the Company shall not be entitled to receive any sum or sums as interest or dividends on their ordinary

Penalty on non-completion of line.

Adelaide and Suburban Tramways Extension Act.—1881.

ordinary and unguaranteed shares in the Company, unless and until the tramways hereby authorised shall have been completed and thrown open for the conveyance of the public, and shall be in actual working order and condition.

Deposit to be impounded as security for completion of line.

26. Whereas, pursuant to the Standing Orders of the Legislative Council of this province, a sum of Seven Hundred and Twenty-five Pounds, being one-twentieth of the amount of the estimate in respect of the tramways authorised by this Act, has been deposited in the Treasury of the said province: Be it Enacted that the said sum of Seven Hundred and Twenty-five Pounds so deposited as aforesaid, in respect of the application for this Act, shall not be paid or transferred to or on the application of the person or persons depositing the same, or their successors or representatives, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the tramways hereby authorised to be made, either open the said tramways for the public conveyance of passengers or prove to the satisfaction of the Commissioner of Public Works that the Company have paid up one-half of the amount of the capital raised by means of shares for the construction of the said tramways, and have expended for the purpose of this Act a sum equal in amount to such one-half of the said capital; and if the said period shall expire before the Company shall either have opened the tramways for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Commissioner of Public Works, the said sum of money deposited, as aforesaid, shall be applied in the manner herein-after mentioned, and the certificate of the said Commissioner shall be sufficient evidence of the fact so certified: Provided that if the aforesaid conditions for repayment of the said sum of Seven Hundred and Twenty-five Pounds shall be complied with such sum shall thereupon be repaid to the said Company by the Treasurer.

Application of deposit or penalty in compensation to parties injured.

27. The said sum of money deposited as aforesaid shall be applicable, and, after due notice in the *Government Gazette*, shall be applied towards compensating any person whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said tramways or any portion thereof; or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid; and also in compensating all street authorities for the expenses incurred by them in taking up any tramway or materials connected therewith, placed by the Company in or on any road, vested in or maintainable by such street authorities respectively; and in making good all damages caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid, and in such proportion as to the Supreme Court or any Judge thereof may seem fit; and if no such compensation shall be payable, or if a portion of such sum shall have been found sufficient to satisfy all just claims in respect of such

Adelaide and Suburban Tramways Extension Act.—1881.

such compensation, then the said sum of money or such portion thereof as may not be required as aforesaid shall be forfeited to Her Majesty, and accordingly be paid or transferred to and form part of the revenue of the province in such manner as the said Court or Judge thinks fit to order on application of the Attorney-General, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

28. It shall not be lawful for the Company to employ any part of the capital raised by payment of calls for the purpose of paying any sum or sums of money as interest or dividends upon such calls.

No interest on calls to be paid out of capital.

29. The Company shall not, out of the capital raised for the purposes of the principal Act, pay the deposit money referred to in the twenty-first section hereof.

Deposit not to be paid out of capital received for other purposes.

30. At any time after the expiration of ten years from the time of the passing of this Act, upon giving to the said Company twelve months' notice in writing, it shall be lawful for the Government of the said province to purchase the tramways and undertakings hereby authorised, and the tramways and undertakings authorised by the principal Act, at a price to be determined in manner specified in the fifty-seventh section of the principal Act. And all the powers and rights vested in the Corporation of the City of Adelaide, by virtue of sections fifty-seven, fifty-eight, and fifty-nine of the principal Act, are hereby repealed, and the same are hereby vested in the said Government as well with respect to the tramways hereby authorised as to the tramways authorised by the principal Act. And the said sections, except as regards the period within which the powers and rights thereby created are to be exercised, shall be read and construed as if the words "Government of the said province" were inserted therein in lieu of the words "Corporation of the City of Adelaide" and in lieu of the word "Corporation" whenever such lastly-mentioned words or word appear.

Government may purchase tramways.

31. If at any future time the said Government shall construct or erect any line of tramway or railway, the construction or erection of which may injuriously affect, whether by competition or otherwise, the lines of tramways hereby authorised, the Company shall not be entitled to receive or claim any compensation from the said Government by reason of such damage or injury.

Government not bound to compensate.

32. Nothing herein contained shall be deemed or construed to exempt the tramways by this Act authorised to be made from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future Session of Parliament, or from any future revision and alteration under the authority

Tramways not to be exempt from several Acts.

Adelaide and Suburban Tramways Extension Act.—1881.

authority of Parliament, of the maximum rates of fares and charges authorised by this Act.

Application of
principal Act.

33. Except where inconsistent with the provisions of this Act, all provisions contained in the principal Act regulating the construction and maintenance of the tramways and undertaking thereby authorised shall apply to the construction and maintenance of the tramways and undertaking hereby authorised, and all rights, powers, and liabilities vested in and affecting the Company and other persons by virtue of the principal Act, in any matter relating to the tramways and undertaking thereby authorised, shall be vested in and affect in a similar manner the said Company and all other persons in reference to the tramways and undertaking hereby authorised; and all fines, penalties, and forfeitures for any offence against the provisions of the principal Act shall be payable and recoverable in respect of similar acts and offences in reference to the tramways and undertaking hereby authorised; and all provisions contained in the principal Act as to evidence and procedure shall apply to similar matters in reference to the tramways and undertaking hereby authorised; and for the purposes aforesaid all words contained in the principal Act referring to the tramways and undertaking thereby authorised shall be deemed to comprise the tramways and undertaking hereby authorised; and all powers and discretions vested in the respective street authorities by the principal Act in respect of the licensing of cars and drivers and levying rates shall apply to the tramways hereby authorised, and the cars and drivers using or employed on the same; and, for the purposes aforesaid, all provisions of the principal Act shall apply to the tramways hereby authorised.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to authorise the Parkside Tramway Company, Limited, to construct, maintain, and work a tramway by horse traction in and between certain parts of the City of Adelaide and the Townships of Parkside, Fullarton, and Parkside South, and for other purposes.

[Assented to November 18th, 1881.]

WHEREAS the construction, maintenance, and working of tramways for traction by horse power in and between certain parts of the City of Adelaide and the Townships of Parkside, Fullarton, and Parkside South, in such a manner as not to impede or injure ordinary traffic, would be of great local and public advantage: And whereas a Joint Stock Company has been lately registered and incorporated under "The Companies Act, 1864," by the name of "The Parkside Tramway Company, Limited," with the objects, amongst others, of constructing, maintaining, and working such tramways as are hereinbefore referred to, and of obtaining an Act of the Parliament of the Province of South Australia for empowering and better enabling the Company to carry out its objects: And whereas the said Company is willing at its own expense to construct, maintain, and work the said tramways in manner hereinbefore mentioned, but the authority of Parliament is requisite to enable the Company so to do, and it is therefore desirable to confer on the Company all rights, powers, privileges, and immunities necessary or convenient for the construction, maintenance, and working of such tramways—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and

The Adelaide and Parkside South Tramway Act.—1881.

and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

Short title.

1. This Act may be cited for all purposes as “The Adelaide and Parkside South Tramway Act, 1881.”

Incorporation.

2. The “Lands Clauses Consolidation Act” shall be incorporated with, and form part of, this Act.

Interpretation.

3. In the construction of this Act, unless there shall be something in the subject matter or context repugnant to such meanings—

The expression “the Company” shall mean “The Parkside Tramway Company, Limited:”

The expression “the tramways” shall mean the tramways by this Act authorised, or any part thereof:

The expression “the deposited plans” shall mean as well the plan of the tramways and the book of reference thereto, which were deposited in the office of the Surveyor-General on the seventh day of July, one thousand eight hundred and eighty-one, as the plan of portion of the main line of tramway which was on the seventh day of September, one thousand eight hundred and eighty-one, deposited at the said office:

The expression “street” shall mean any public street, road, foot-path, or place along or across which the tramways are authorised to be laid:

The expression “the street authority” shall mean the persons having the control or management of the street in respect of which such expression shall be used, if the same shall be used in respect of any particular street; but if such expression shall not be used in respect of any particular street, it shall mean any persons having the control or management of any street:

4. The said plan deposited on the seventh day of July, one thousand eight hundred and eighty-one, shall have effect as amended, altered, or varied by the said plan deposited on the seventh day of September, one thousand eight hundred and eighty-one.

Power to make tramways.

5. Subject to the provisions of this Act, the Company may make, form, lay down, construct, maintain, and work on the lines shown in the deposited plans the tramways hereinafter described, or such portion thereof as the Company may think expedient, with all proper rails, plates, works, sidings, junctions, stations, approaches, and conveniences connected therewith.

The tramways hereinbefore referred to, and authorised by this Act, are as follows—

A single line of tramway, two miles and four furlongs in length, commencing at the junction of Pirie-street and King William-street, Adelaide, and thence passing along Pirie-street to

The Adelaide and Parkside South Tramway Act.—1881.

to Hutt-street; thence from the junction of Pirie-street and Hutt-street, along Hutt-street and the road in continuation of Hutt-street to the Glen Osmond Road, and thence from the junction of the two last-named roads along the Glen Osmond Road to a point on such road situated one chain and a half in a south-easterly direction from the junction of such road with the Mitcham and Fullarton Road; with a branch single line of tramway eight chains in length, commencing at a point on the Glen Osmond Road, in line with the western side of the Mitcham and Fullarton Road, and passing thence along the Mitcham and Fullarton Road to allotment No. 234 of the subdivision of part of section No. 253, in the Hundred of Adelaide, laid out as the township of Parkside South, according to a plan deposited in the Lands Titles Registration Office, No. 1005.

6. The centre line of every tramway, except where the line of such tramway shall be a curve, and except in the case of the turn-outs shown on the said deposited plan, shall be as follows—that is to say: In Pirie-street such centre line shall be the centre line of the street; in Hutt-street and the road in continuation of Hutt-street, such centre line shall run parallel with, and on the eastern side of, the centre line of the street or road at a distance of not less than sixteen feet six inches therefrom; in the Glen Osmond Road such centre line shall run parallel with, and on the north-eastern side of, the centre line of such road at a distance of not less than ten feet six inches therefrom; and in the Mitcham and Fullarton Road such centre line shall run parallel with, and on the western side of, the centre line of such road at a distance of not less than ten feet six inches therefrom.

Centre lines of tramways.

7. It shall not be lawful for the Company to alter the levels of any street without the consent of the street authority.

Company not to alter street levels without consent.

8. Every tramway line shall be constructed and maintained with two rails, to be laid at a distance of four feet eight and a half inches from each other, and shall be constructed and maintained in such a manner that the uppermost surface of every rail shall be on a level with the surface of the street, and the rails used in the construction of every tramway shall be of iron or steel, and of the weight of not less than twenty pounds to the yard. And such rails shall be grooved, the groove in no case exceeding one and a quarter inches in width, and all such rails shall be guarded with wood, stone, asphalt, or cement concrete.

Mode of formation of tramways.

9. Every tramway shall be constructed and maintained in such a manner as not to cause any impediment or injury to the use by the public for the purpose of traffic of any street whereon the same shall be laid, and the public shall at all times be entitled to the free and uninterrupted use of every part of such street, save when any conveyance of the Company shall be passing over or be about to pass over any part thereof, or be standing thereon, and then the public shall

Tramways not to impede traffic.

The Adelaide and Parkside South Tramway Act.—1881.

shall not be entitled to the use of the part of such street over which such conveyance shall be passing or about to pass, or upon which conveyance shall be standing: Provided that no such conveyance shall stand at any point in any street other than a terminus of the tramways, except for the purpose of taking up or setting down passengers, or for the purpose of passing at any turn-out or siding.

Company to have no right to soil of street.

10. Nothing in this Act contained shall be construed to give the Company any right to the soil of any street in which they shall construct any tramway other than a right of user thereof for the purposes of this Act.

Power to break up street.

11. Subject to the provisions of this Act, the Company may from time to time open and break up any street for the purpose of making, forming, laying down, constructing, maintaining, or renewing the tramways.

Regulations to be observed on breaking up street—

12. Whenever the Company proceed to open or break up any street—

- i. They shall give to the street authority thereof notice of their intention, specifying the time at which they will commence operations, and the portion of street proposed to be opened or broken up, such notice to be given seven days at least before the commencement of operations:
- ii. They shall not open or break up any street except under the superintendence and to the reasonable satisfaction of the street authority thereof, unless such authority refuse or neglect to give such superintendence at the time specified in the Company's notice, or discontinue the same during the work:
- iii. They shall pay to the street authority all reasonable costs incurred on account of such superintendence.

Penalty on persons obstructing formation of tramways.

13. If any person shall wilfully obstruct any person acting under the authority of the Company in the lawful exercise of his powers in setting out or making, forming, laying down, repairing, or renewing any tramway, or shall deface or destroy any mark made for the purposes of setting out the line of any tramway, or shall wilfully damage or destroy any property of the Company, he shall, for every such offence, forfeit to the Company a sum not exceeding Five Pounds.

Restriction on length of streets to be broken at same time.

14. The Company shall not, without the consent of the street authority thereof, open or break up at any one time and place a greater length than one hundred yards of any street, and they shall leave an interval of at least three hundred yards between any two places at which they shall open or break up any street at the same time.

Company to restore streets broken up,

15. As soon as the Company shall have opened or broken up any portion of any street—
i. They

The Adelaide and Parkside South Tramway Act.—1881.

- i. They shall, with all convenient speed, and in all cases within three weeks at the most from the time of opening or breaking up the same (unless the street authority thereof shall enlarge such time), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, and renewal of the tramways) fill in the ground and make good the surface, and generally restore the portion of the street so opened or broken up to as good a condition as that to which it was before it was opened or broken up, and to the reasonable satisfaction of the street authority thereof, and clear away all surplus metal, material, or rubbish occasioned thereby, and remove the same to such spot in the municipality wherein any such street shall be situated, as the street authority of such street shall direct:

- ii. They shall in the meantime cause the place where the street is broken up to be properly lighted at night, for the protection of man and beast.

16. If the Company shall in any respect fail to comply with the provisions of the preceding section, they shall for every such offence (without prejudice to any other remedy against them) be liable to a penalty not exceeding Twenty Pounds, and to a further penalty not exceeding Five Pounds, for each day during which any such failure shall continue after the first day on which such penalty is incurred; and all such penalties shall go and belong to the street authority of the street in question.

Penalty on breach of preceding section.

17. Nothing in this Act contained shall take away any power for the time being vested in any street authority to open or break up any street in which any tramway shall be laid for any necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any sewer, gully, gutter, drain, watercourse, defence, or work, or altering the levels of any street: Provided that in the event of the levels of any street being altered, the Company shall alter the levels of the tramways to correspond with such alteration: Provided also, that in the exercise of such power the street authority and Company shall be subject to the following provisions—

Preservation of powers of street authority.

- i. The street authority shall cause as little detriment or inconvenience to the Company as circumstances will admit:
- ii. Before commencing any work whereby the traffic on the tramways may be interrupted, or whereby the safety of any persons using the tramways may be endangered, the street authority shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work, specifying the time at which they will commence, and which shall not be earlier than forty-eight hours after the time of the giving such notice:

iii. If

The Adelaide and Parkside South Tramway Act.—1881.

- III. If the street authority for the purpose of enabling them to execute the work shall so require, by any notice given as aforesaid, the Company shall either stop their traffic on that portion of the tramways where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work, and the street authority shall thereupon complete the work with all reasonable expedition :
- IV. If it shall become necessary to remove the tramways from any part of any street to enable any such work to be effected, it shall be lawful for the Company to lay down the tramways so removed in some adjacent and convenient position, and after such work shall have been effected to replace the tramway in its original position, and the cost of such laying down and replacing shall be borne by the street authority of the street where the same is effected.

Preservation of power
of other persons.

18. Nothing in this Act contained shall take away any power for the time being vested in any persons to open or break up any street on which any tramway shall be laid for any necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes; but, in the exercise of such powers such persons shall be subject to the following restrictions—

- I. They shall cause as little damage or inconvenience to the Company as circumstances will admit :
- II. Before commencing any work whereby the traffic on the tramway may be interrupted, or whereby the safety of any persons using the tramway may be endangered, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work, specifying the time at which they will commence, and which shall not be earlier than forty-eight hours after the time of the giving of such notice :
- III. They shall not execute such work, so far as it immediately affects the tramways, except under the superintendence and to the reasonable satisfaction of the Company, unless the Company refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the work :
- IV. If it shall become necessary to remove the tramway from any part of any street, to enable any such work to be effected, it shall be lawful for the Company to lay down the tramway so removed in some adjacent and convenient position, and after such work shall have been effected, to replace the tramway in its original position, and the cost of such laying down and replacing shall be borne by such persons.

16. For

The Adelaide and Parkside South Tramway Act.—1881.

19. For the purpose of making, forming, laying down, maintaining, repairing, or renewing any of their tramways, the Company may from time to time, where and as far as it is necessary, alter the position of any mains or pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, subject to the following restrictions, that is to say—

Provision as to
waterworks and gas
companies.

1. Before laying down or altering a tramway in a road in which any mains or pipes, tubes, wires, or apparatus may be laid (other than private service pipes), the Company shall, whether they contemplate altering the position of any such mains or pipes, tubes, wires, or apparatus or not, give seven days' notice to the person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such person that the construction of the tramway as proposed would endanger any of such mains or pipes, tubes, wires, or apparatus, or interfere with or impede the supply of water or gas, or the telegraphic or other communication, such person may give notice to the Company to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus, in such manner as may be considered necessary. And all alterations to be made under this section shall be made with as little detriment and inconvenience to the person to whom such mains, pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such person, or their or his surveyor or engineer, if they or he think fit to attend after receiving not less than twenty-eight hours' notice for that purpose, which notice the Company are hereby required to give:

Company may alter
position of gas and
waterpipes.

- II. The Company shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such person, or do anything to impede the passage of water or gas, or the telegraphic or other communication into or through such mains or pipes, without the consent of such person, or in any other manner than such person shall approve, until good and sufficient mains, pipes, valves, syphons, plugs, and other works necessary or proper for continuing the supply of water or gas, or telegraphic or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall at the expense of the Company have been first made and laid down in lieu thereof and ready for use, to the satisfaction of such person or his surveyor or engineer, or in case of disagreement, between such person, or his surveyor, or engineer, and

Company not to dis-
turb pipes until they
have laid down others
for continuing the
supply of water and
gas.

The Adelaide and Parkside South Tramway Act.—1881.

and the Company, to the satisfaction of an engineer to be appointed by the Corporation of the City of Adelaide :

Pipes not to be laid
contrary to Acts.

III. The Company shall not lay down such pipes contrary to the regulations of any Act of Parliament.

For protection of
sewers.

20. Where any of the tramways or any other work connected therewith interferes with any sewer, drain, watercourse, defence, or work under the jurisdiction or control of the Corporation of the City of Adelaide, or the street authority, or any other person, or with any sewers or works to be made or executed by the said Corporation, street authority, or other person, or in any way affects the sewerage or drainage of the district under their control, or under the control of any of them, the Company shall not commence any tramway or work until they shall have given to the street authority, Corporation, or other person, fourteen days' previous notice in writing of their intention to commence the same by leaving such notice at the principal office of such street authority, Corporation, or other person, with all necessary particulars, nor until such street authority, Corporation, or person, shall have signified their approval of the same, unless they do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid ; and the Company shall comply with and conform to all reasonable directions and regulations of such authority, Corporation, or person in the execution of the said works, and shall provide new, altered, or substituted works in such manner as the said street authority, corporation, or person, shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, or by reason of the tramways, and shall save harmless the street authority, Corporation, or person, against all and every expense to be occasioned thereby ; and all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the street authority, corporation, or person, at the reasonable costs, charges, and expenses in all respects of the Company ; and when any new, altered, or substituted work as aforesaid, or any work or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the Company under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the street authority, Corporation, or person aforesaid, and be maintained by them, as the case may be, as any sewers or works now or hereafter may be.

Company to be liable
for accidents.

21. The Company shall be answerable for all accidents, damages, and injuries happening through the default or wrongful act of the Company, or of any person in their employment, by reason or in consequence of any of the works of the Company, and shall indemnify all street authorities and persons from all damages and costs in respect of such accidents, damages, and injuries.

22. The

The Adelaide and Parkside South Tramway Act.—1881.

22. The tramways shall be completed fit for traffic within three years from the passing of this Act, or within such further time not exceeding twelve months from the end of such three years as the Governor may see fit to allow, and upon the expiration of such three years, or of such further time (if any) as may have been allowed as aforesaid, the powers by this Act granted to the Company for constructing the tramways shall cease to be exercisable.

Completion of tramways.

23. The Company shall at all times keep the tramways in good repair and working order, and after the end of the said three years, or of such further time (if any) as may have been allowed pursuant to the preceding section for constructing the tramways, the Company shall provide cars in sufficient numbers to travel along the tramways from the Adelaide terminal station to the Parkside South terminal station, at least six times each way between the hours of seven o'clock in the morning and eleven o'clock in the evening of every day except Sunday.

Maintenance of tramways.

24. The Company shall at their own expense at all times maintain and keep in good condition and repair with such materials and in such manner as the street authority shall direct, and to their satisfaction, so much of any road whereon any tramway of the Company is laid as lies between the rails of the tramway, and so much of the road as extends eighteen inches beyond the rails of and on each side of any tramway of the Company. If the Company abandon their undertaking or any part of the same, and take up any tramway or part of any tramway belonging to them, they shall with all convenient speed and in all cases within six weeks at the most (unless the said street authority otherwise consent in writing), fill in the ground and make good the surface, and to the satisfaction of the said street authority restore the portion of road upon which such tramway was laid, and clear away all surplus paving or metalling material or rubbish occasioned by such work; and they shall in the meantime cause the place where the street is opened or broken up to be fenced and watched, and to be properly lighted at night: Provided always, that if the Company fail to comply with the provisions of this section, the street authority, if they think fit, may themselves, at any time after seven days' notice to the Company, open and break up the road, and do, instead of the Company, the work necessary for the paving, repair, and maintenance of the road to the extent in this section abovementioned, and the expense incurred by the said street authority in so doing shall be repaid to them by the Company.

Repairs of part of street where tramway is laid.

25. The cars of the Company shall be drawn or propelled by horses; and no car shall travel along any street in the City of Adelaide or in any of the towns or townships through which the tramways shall pass at a greater speed than shall be allowed by law, or by the by-laws of the street authority of the street through which such car shall travel.

Motive power and speed.

The Adelaide and Parkside South Tramway Act.—1881.

Company to have exclusive use of tramways.

26. The Company may use on the tramways cars with flange wheels, or wheels specially or particularly adapted to run on a grooved rail, and subject to the provisions of this Act, the Company shall have the exclusive use of the tramways.

Penalty for using tramways.

27. If any person other than the Company (except by agreement with the Company) shall wilfully use the rails of the tramways for the purpose of driving or propelling any conveyance thereon, such person shall forfeit and pay to the Company a sum not exceeding Twenty Pounds for every such conveyance using, and for every time that it uses, such rails.

Company may make arrangements for use of tramways.

28. The Company and any other person may from time to time make and enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use by such other person of the tramways, and the tolls, rates, and charges to be paid for such use, and the terms and conditions of such user, and all incidental matters.

Penalties for interference with Company's use of tramways.

29. If any person, without lawful excuse, the proof whereof shall lie on him, shall wilfully do any of the following things, namely—

- I. Interfere with, remove, or alter any part of a tramway of the Company, or of the works connected therewith :
- II. Place or throw any stones, dirt, wood, refuse, or other material on any part of any tramway :
- III. Do, or cause to be done, anything so as to hinder or obstruct any car lawfully using the tramways, or to endanger the lives of persons thereon or therein :
- IV. Hinder or obstruct, or endeavor to hinder or obstruct, any person from getting in or out of any car lawfully using the tramways, either by shepherding such car or otherwise :
- V. Or knowingly aid or assist in the doing of any such thing :

he shall for every such offence, in addition to any proceedings by way of indictment or otherwise to which he may be liable, forfeit to the Company a sum not exceeding Twenty Pounds.

Tolls.

30. The Company may demand and take for every passenger conveyed upon the tramways, for the use of the tramways and car, and motive power, and every other expense incidental to the conveyance of such passengers, any tolls or charges not exceeding the sum of Twopence per mile, but so that for every passenger conveyed for a distance less than three miles the Company may demand and take tolls and charges as for three miles, and for every fraction of a mile beyond three miles the Company may demand tolls and charges as for a mile.

Passengers may take luggage.

31. Every passenger travelling upon the tramways may take with him his ordinary personal luggage without any charge being made for

The Adelaide and Parkside South Tramway Act.—1881.

for the carriage thereof, but so that the weight of such luggage shall not exceed twenty-eight pounds.

32. A list of all the tolls and charges authorised by this Act to be taken, and which shall be demanded by the Company, shall be exhibited in some conspicuous place in the inside of each of the cars used by the Company upon the tramways.

List of tolls and charges to be exhibited.

33. The tolls and charges authorised by this Act to be taken, and which shall be demanded by the Company, shall be paid to such persons, and at such places upon or near the tramways, and in such manner, and under such regulations as the Company shall by notice to be annexed to the list of tolls appoint.

Mode of payment of tolls and charges.

34. If any person travelling, or having travelled in or on any car of the Company shall avoid, or attempt to avoid payment of his fare: or if any person having paid his fare for a certain distance shall proceed in or on any such car beyond such distance, and shall not pay his fare for the additional distance, or shall attempt to avoid payment thereof: or if any person refuse or neglect on arriving at the point to which he has paid his fare to quit such car, every such person shall for every such offence forfeit to the Company a sum not exceeding Forty Shillings.

Penalties on evasion of payment of fare.

35. It shall be lawful for any officer or servant of the Company, and all persons called by him to his assistance, to seize any person who shall be discovered to be committing any offence in the preceding section mentioned, and whose name and residence shall be unknown to such officer or servant, and to detain such person until he can be conveniently taken before a Justice of the Peace for the said province, or until he be otherwise discharged by due course of law.

Power to detain offenders.

36. No person shall carry on the tramways any aquafortis, oil of vitriol, gunpowder, or other goods which may be of a dangerous nature; and if any person shall carry such goods on the tramways he shall forfeit any sum not exceeding Twenty Pounds for every such offence; and it shall be lawful for any authorised servant of the Company, or any constable or Justice of the Peace, to require any parcel that he may suspect to contain any such goods to be opened in order to ascertain the fact.

No person to carry dangerous goods on tramways.

37. The restrictions in this Act contained as to the tolls and charges which the Company may demand and take for the conveyance of passengers shall not extend to any special car, but shall apply only to the ordinary cars appointed by the Company from time to time for the conveyance of passengers.

Limits on tolls and charges not to apply to special cars.

38. If, after the tramways shall have been for one year opened for public traffic, it shall be represented in writing to the Governor by the street authority of any street in which the tramways

Provision for removal or modification of dangerous or inconvenient tramways.

The Adelaide and Parkside South Tramway Act.—1881.

tramways are laid that, in the opinion of such street authority, the tramways, or some specified part thereof, are, or is, dangerous or inconvenient to the public, and ought to be removed or modified, the following provisions shall come into force--

- i. The Governor may, by order under his hand, require the Company to remove or modify the tramways or the part thereof specified as aforesaid :
- ii. If the Company, within one calendar month after the service of such order, shall give notice in writing under their common seal to the Governor, that they desire that the question as to the necessity or expediency of the removal or modification ordered shall be referred to the decision of an arbitrator to be appointed by the Governor, the question shall be referred accordingly ; and upon the application either of the Company or of the street authority, the Governor shall appoint some impartial person as arbitrator, and the award of the arbitrator with reference to the question referred to him shall be final and conclusive as against all parties, and the arbitrator by his award may, if he think fit, direct the removal or modification of the tramways :
- iii. Within six calendar months after service upon the Company of the order of the Governor directing the removal or modification of the tramways, or if the Company shall have given notice as aforesaid of their desire that the question as to the necessity or expediency of such removal or modification should be referred, then, within six calendar months after the publication of the award of any arbitrator appointed by the Governor directing the removal or modification of the tramways, or within such earlier time if any as may be limited by such order or award, the Company shall remove or modify the tramways pursuant to the directions contained in such order or award, and shall make good the street in which the tramways removed or modified were or are situate to the reasonable satisfaction of the street authority thereof: Provided that if any modification which the Company may be required to make in the tramways by any such order or award shall be beyond their then existing powers, the Company shall, as soon as conveniently may be, apply to Parliament for the necessary powers to make such modification, and the provisions contained in the next following sub-section shall not have effect until the expiration of three calendar months after the Bill to be introduced into Parliament by the Company in compliance with this provision shall have become law, unless such Bill shall be rejected by Parliament or withdrawn :
- iv. If the Company fail to remove or modify the tramways in accordance with such order or award, as the case may be, or to make good the street in manner aforesaid, the removal,

The Adelaide and Parkside South Tramway Act.—1881.

moval, modification, or making good may be effected by the street authority of the street in which such tramways are situate, and the amount of the cost thereof, certified by the clerk or secretary for the time being of such street authority (whose certificate shall be final and conclusive with reference thereto) shall, on demand, be repaid by the Company to the street authority:

- v. If the Company fail to pay the amount so certified within one calendar month after delivery to them of the certificate or a copy of the certificate of the clerk or secretary of the street authority, the street authority (without prejudice to any other remedy which they may have for the recovery of the amount) may sell and dispose of any materials of the tramways removed or modified which may remain in their hands, either by public auction or private sale, for such price as the street authority shall think fit, and may, out of the proceeds of such sale, pay and reimburse themselves the amount of the costs certified as aforesaid, and all charges and expenses of and incidental to such sale, and the balance (if any) of the proceeds of such sale shall be paid by the street authority to the Company.

39. If at any time after the opening of the tramways for traffic the Company shall discontinue the working thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the Company), it shall be lawful for the street authority of any street to remove the tramways situate in such street, the working whereof shall be so discontinued as aforesaid, and the amount of the cost of such removal and making good, certified by the clerk or secretary of such street authority (whose certificate shall be final and conclusive with reference thereto), shall, on demand, be repaid by the Company to the street authority; and if the Company fail to pay the amount so certified within one calendar month after delivery to them of such certificate, or a copy thereof, the street authority (without prejudice to any other remedy which they may have for the recovery of the amount), may sell and dispose of the materials of the tramways so removed, and apply the proceeds of such sale in manner provided by the last preceding section.

Provision in case of
discontinuance of
working.

40. If at any time hereafter it shall appear to any street authority that the Company are insolvent, so that they are unable to carry out the undertaking with advantage to the public, and the street authority shall make a representation to that effect to the Governor, the Governor may direct an inquiry into the truth of the representation, and if the referee shall find that the Company are so insolvent, the Governor may, by order under his hand, declare that the powers of the Company under this Act shall cease and determine on the expiration of six months from the date of such order, and (unless Parliament shall in the meantime otherwise declare) such powers

Provision in case of
insolvency of
Company.

The Adelaide and Parkside South Tramway Act.—1881.

powers shall cease and determine accordingly; and it shall be lawful for the street authority of any street at any time after the expiration of the said six months to remove the tramways situate in such street, and to restore the same to its original state and condition, and to sell and dispose of the materials of the tramways in manner hereinbefore mentioned, and out of the proceeds of such sale to pay and reimburse themselves the amount of the costs (to be certified by the clerk or secretary of the street authority, whose certificate shall be final and conclusive) of the removal of the tramways, and restoration of the street, and of and incidental to the sale, and the balance, if any, of the proceeds of the sale, shall be paid over by the street authority to the Company.

Mode of conducting
inquiries.

41. Every inquiry which by this Act the Governor is empowered to direct shall be made in accordance with the following provisions—

- i. The inquiry shall be held before an officer (hereinafter called the referee) to be appointed in that behalf by the Governor, and the appointment of the referee shall be in writing which shall specify all the matters referred to him:
- ii. Ten days' written notice at the least, of the time and place at which the inquiry is to be commenced, shall be given by the referee to the Company, and to the street authority upon whose representation the Governor shall have directed the inquiry:
- iii. The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time, as may be necessary, to such time and place as he may think fit:
- iv. The referee, either on the application of the Company or of the street authority aforesaid, shall by summons require the attendance before himself, at a place and time to be mentioned in such summons, of any person to be examined as a witness before him; and every person summoned shall attend the referee in obedience to such summons, and answer all questions touching the matter to be inquired into:
- v. The referee shall administer an oath to any person summoned or tendered as a witness on the inquiry:
- vi. The referee shall make his report to the Governor in writing, and shall, upon request, deliver copies of his report to all or any of the parties to the inquiry:
- vii. The referee shall have power to direct by and to whom the costs, or any part of the costs of the inquiry, shall be paid, and he shall also fix the amount thereof:
- viii. The referee shall for all purposes be deemed to be an arbitrator, and his appointment shall be deemed to be a submission to arbitration between the parties to the inquiry
in

The Adelaide and Parkside South Tramway Act.—1881.

in respect of the matters thereby referred to him, and his report shall be deemed to be, and shall have the effect of and be dealt with as, an award made upon such submission, and every such submission on the application of any party interested in the inquiry may be made a rule of the Supreme Court.

42. It shall be lawful for the Company from time to time to make by-laws for preventing the commission of any nuisance in or upon any car, or on any of the premises of the Company, and for regulating the travelling upon or using and working of the tramways, and the conduct of the officers and servants of the Company, and generally for providing for the management of the affairs of the Company; and it shall also be lawful for the Company from time to time to repeal or alter any such by-laws: Provided that such by-laws be not repugnant to law.

Power for Company to make by-laws.

43. Any person offending against any by-law of the Company shall forfeit for every such offence any sum not exceeding Five Pounds, to be imposed by the Company in such by-laws as a penalty for any such offence; and if the infraction or non-observance of such by-laws be attended with danger or annoyance to the public, or hindrance to the Company in the lawful use of the tramways, it shall be lawful for the Company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.

Penalty for infringement of by-laws.

44. A copy of all by-laws made by the Company shall be sealed with the seal of the Company, and submitted for approval to the Governor, who, on being satisfied that the same are framed in conformity with law, and are reasonable and proper, may confirm the same by writing under his hand; and no by-laws made by the Company shall have any force or effect until the expiration of fourteen days after a copy of such by-laws and of the confirmation thereof by the Governor shall have been published in the *Government Gazette*.

By-laws to be confirmed by Governor.

45. It shall be lawful for the Governor at any time to notify to the Company his disallowance of any by-laws then in force, and the time at which the same shall cease to be in force; and no by-laws which shall be so disallowed shall have any force or effect after the time fixed by the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same: Provided that a copy of such notice shall be published in the *Government Gazette*: and the time of disallowance fixed by such notice shall not be earlier than fourteen days after the date of the first publication of such notice.

Governor may disallow by-laws.

46. The production of a copy of the *Government Gazette*, purporting to contain a copy of any by-laws of the Company, and the confirmation thereof by the Governor, or a notice of the disallowance by the Governor of any by-laws of the Company, shall in all cases

Gazette to be evidence of by-laws.

The Adelaide and Parkside South Tramway Act.—1881.

cases and for all purposes be deemed to be conclusive evidence that such by-laws have been duly made and confirmed or disallowed, in manner therein appearing.

Service of notices.

47. Every notice by this Act required to be given by or to the Company shall be in writing or print, or partly in writing or partly in print, and shall be signed by the Company, street authority, or persons giving the same, or by their secretary or clerk; and such notice shall be deemed to have been duly given if left at the principal office of the Company, street authority, or persons to whom the same shall be intended to be given, or if posted in a registered letter, prepaid, addressed to such Company, street authority, or persons, or their secretary or clerk, at their principal office: Provided that if such notice shall be posted as aforesaid, the same shall be deemed to have been given at the last moment of the day on which the same ought to be delivered at such principal office in the ordinary course of post.

Company's officers liable to be proceeded against criminally.

48. Every secretary, accountant, or officer, clerk, or servant of the Company, notwithstanding he may be a shareholder and have a joint interest in the property of the Company, shall be liable to be proceeded against criminally for any offence committed by him in respect of the property of the Company in like manner and in all respects as if he were not a shareholder and had no such interest.

Proceedings to be taken under Ordinance No. 6 of 1850.

49. Every proceeding under this Act for any omission, default, offence, or act to which any penalty is attached, where no other mode of proceeding is by this Act provided, may be had and taken before and be heard and determined in a summary way by any Special Magistrate or two Justices of the Peace, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, intituled "An Ordinance to facilitate the Performance of the Duties of Justices of the Peace out of Sessions with respect to Summary Convictions and Orders," or of any Act now in force or hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders, and all convictions and orders made by such Magistrate or Justices may be enforced as in the said Ordinance or in any other Act as aforesaid is or shall be provided.

Appeal may be had to Local Court of Adelaide, Full Jurisdiction.

50. In every case of the adjudication of a fine or pecuniary penalty under this Act, and of the non-payment thereof, any Justice of the Peace may commit the offender or person making default in payment to any gaol in the said province for any time not exceeding three calendar months; the imprisonment to cease on payment of the sum due, and the costs of such proceedings as may have been taken for the recovery thereof; but this section shall not affect any remedy under the said Ordinance No. 6 of 1850.

Proceedings on appeal.

51. There shall be an appeal to the Local Court of Adelaide of Full Jurisdiction only from every conviction by any Special Magistrate

The Adelaide and Parkside South Tramway Act.—1881.

trate or Justices for any offence against this Act, and from every order dismissing any information or complaint or from any other order made by such Magistrate or Justices under this Act, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts, or any Act to be hereafter in force regulating such appeals ; but the Local Court of Adelaide aforesaid shall have power to make such order as to the payment of the costs of the appeal as it shall think fit, although such costs may exceed Ten Pounds.

52. In each year after the year one thousand eight hundred and eighty-two, the Company shall pay to the Corporation of the City of Adelaide rates calculated on the sum of Two Hundred Pounds as the annual value of every mile in length of the tramways along any street in the City of Adelaide, in the same manner as rates declared and levied upon rateable property by virtue of "The Municipal Corporations Act, 1880," or of any Act amending the same, and such rates shall form portion of the general revenue of such Corporation: Provided that, save as in this section provided, neither the tramways nor any works connected therewith, nor the cars, horses, rolling-stock, or other things used in working the tramways, shall be liable to the payment of any Municipal, District, or other local rates or taxes whatever.

Rating clause.

53. The Corporation of the City of Adelaide shall have the like power of making and enforcing rules and regulations, and of granting licences with respect to all carriages using the tramways, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings for the same, as they are for the time being entitled to make, enforce, and grant, with respect to the hackney carriages and the drivers, and other persons having the charge thereof, and to the standings for the same in the streets of, or under the control of, the Corporation.

Power to Adelaide Corporation to license drivers, conductors, &c.

54. Nothing in this Act shall limit or affect the power of any street authority to regulate the passage of any traffic along or across any street in which the tramways shall be constructed, and such street authority may exercise any such power as well on as off the tramways, and with respect as well to the traffic of the Company as to the traffic of other persons.

Power of street authority preserved.

55. The Company, prior to engaging any treasurer, collector, receiver, or other officer, to be entrusted with the collection or custody of any moneys in connection with or for the use of the tramways hereby authorised, shall receive from such officer a bond, with sufficient sureties, conditioned in such an amount as the Directors of the Company may deem sufficient, as security for the faithful execution of his office.

Security from treasurer.

56. All moneys at any time becoming due to the Company by
c any

Payment of capital subscribed to be compelled.

The Adelaide and Parkside South Tramway Act.—1881.

any of its members in respect of calls made upon shares not fully paid up, but subscribed for the purpose of constructing and maintaining the tramways hereby authorised, shall be debts due to the Company by such members respectively, and recoverable by action accordingly.

Accounts to be kept.

57. The said Company shall cause to be kept full and accurate accounts of all moneys received and expended under the provisions of this Act, and shall cause such accounts to be balanced once at least in every year.

Accounts to be audited.

58. The Company shall, once at least in every year, cause such accounts to be submitted to an auditor or auditors, to be appointed by the members of the Company; and such auditor or auditors shall, for the purpose of assisting him or them in the preparation of a full, true, and impartial report, be supplied by the Directors of the Company with all books, accounts, memoranda, and vouchers relating in anywise to the affairs of the Company.

Remuneration of auditors.

59. The remuneration of such auditor or auditors shall be fixed by the members of the Company at the time of his or their appointment, and shall be payable out of the funds of the Company.

Abstract of account to be annually transmitted to Auditor-General.

60. The Company shall also, once in every year at the least, cause to be prepared an account in abstract of the total amount realised by the said fees, tolls, charges, and other payments hereby authorised to be made, and also of all outgoings, debts, expenses, and liabilities incurred by or on behalf of the Company for the past year, under the several and distinct heads of receipts and expenditure, together with a statement of the balance of the account, duly audited, which statement shall be signed and certified by such auditor or auditors and by the Chairman of the Directors of the Company; and the Company shall cause to be transmitted one copy of such account, free of charge, to the Auditor-General of the said province, on or before the thirty-first day of January in every year.

Penalty.

61. In the event of the Company not forwarding such account at the time hereinbefore provided, they shall forfeit and pay a sum or penalty of Ten Shillings for every day during which the said account is withheld from the Auditor-General.

Auditor-General to file abstract.

62. The said account shall, after due inspection by the Auditor-General, be filed by him in his office, and shall be open to the inspection of the public at all reasonable hours on payment of the sum of One Shilling.

Restrictions as to mortgage.

63. The Company shall not have power to raise by loan or mortgage any sum or sums of money exceeding one-third part of the capital of the Company, nor shall it be lawful for the Company, or any person or persons acting on its behalf, to raise any sum or sums of money whatsoever, whether on loan or mortgage, unless and until

The Adelaide and Parkside South Tramway Act.—1881.

until an amount equal to one-half of the capital of the Company shall have been fully paid up by the members thereof.

64. Whereas, pursuant to the Standing Orders of the Legislative Council of this province, a sum of Three Hundred and Twenty-five Pounds, being one-twentieth of the amount of the estimate in respect of the tramways authorised by this Act, has been deposited in the Treasury of the said province: Be it Enacted that the said sum of Three Hundred and Twenty-five Pounds so deposited as aforesaid, in respect of the application for this Act, shall not be paid or transferred to or on the application of the person or persons depositing the same, or their successors or representatives, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the tramways hereby authorised to be made, either open the said tramways for the public conveyance of passengers or prove to the satisfaction of the Commissioner of Public Works that the Company have paid up one-half of the amount of the capital of the Company as fixed by the memorandum of association thereof, and have expended for the purposes of this Act a sum equal in amount to such one-half of the said capital; and if the said period shall expire before the Company shall either have opened the tramways for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Commissioner of Public Works, the said sum of money deposited, as aforesaid, shall be applied in the manner hereinafter specified, and the certificate of the said Commissioner shall be sufficient evidence of the fact so certified: Provided that if the aforesaid conditions for repayment of the said sum of Three Hundred and Twenty-five Pounds shall be complied with such sum shall thereupon be repaid by the Treasurer to the said Company.

Deposit to be impounded as security for completion of line.

65. The said sum of money deposited as aforesaid shall be applicable, and, after due notice in the *Government Gazette*, shall be applied towards compensating any person whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said tramways, or any portion thereof; or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation, or inadequate compensation, shall have been paid; and also in compensating all street authorities for the expenses incurred by them in taking up any tramway or materials connected therewith, placed by the Company in or on any road vested in or maintainable by such street authorities respectively, and in making good all damages caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportions as to the Supreme Court or any Judge thereof may seem fit; and if no such compensation shall be payable, or if a portion of such sum shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money or such portion

Application of deposit or penalty in compensation to parties injured.

The Adelaide and Parkside South Tramway Act.—1881.

portion thereof as may not be required as aforesaid shall be forfeited to Her Majesty, and accordingly be paid or transferred to and form part of the revenue of the province in such manner as the said Court or Judge thinks fit to order on application of the Attorney-General, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Penalty in case of non-completion.

66. If the tramways authorised by this Act shall not be completed within the period limited by this Act, then, on the expiration of such period, the powers by this Act granted to the Company for making and completing the said tramways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

No interest on calls to be paid out of capital.

67. It shall not be lawful for the Company to employ any part of the capital raised by means of calls or of any power of borrowing for the purpose of paying any sum or sums of money as interest or dividends upon such calls.

Government may purchase.

68. At any time after the expiration of fourteen years from the time of the passing of this Act, it shall be lawful for the Government to purchase the said tramways and undertaking, at a price to be determined as follows, that is to say: Two arbitrators shall be appointed by the Government, and two arbitrators by the Company, and all matters relating to such purchase shall be submitted to the decision of such arbitrators, and in all other respects such arbitration shall be conducted in accordance with and under and subject to the "Railways Clauses Consolidation Act," No. 7 of 1847: Provided that the Government shall not be compelled to abide by the event of the award if the Government shall give to the Company one month's notice in writing to that effect, and thereupon the Company shall be at liberty to carry on and work the said tramway: And provided also, that the Government shall pay all costs of the reference and award, and all costs and charges incidental thereto.

Tramway not to be exempt from general Act.

69. Nothing herein contained shall be deemed or construed to exempt the tramway by this Act authorised to be made from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future Session of Parliament, or from any future revision and alteration, under the authority of Parliament, of the maximum rates of fares and charges authorised by this Act.

Government not bound to compensate.

70. If at any future time the Government shall construct or erect any line or lines of tramway or railway, the construction or erection of which may, or may be supposed to injuriously affect, whether by competition or otherwise, the lines of tramway hereby authorised,

The Adelaide and Parkside South Tramway Act.—1881.

authorised, the Company shall not be entitled to receive or claim any compensation from the Government by reason of such damage or injury.

71. Nothing in this Act contained shall affect any right, title, or interest of Her Majesty, Her heirs, or successors. Act not to affect Her Majesty.

72. This Act shall be deemed and taken to be a Public Act, and shall be judicially noticed as such within the province without being specially pleaded. Act to be deemed a Public Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to authorise the Adelaide and Hindmarsh Tramway Company, Limited, to construct, maintain, and work Tramways for horse-traction and steam or other power from the western extremity of Tramway Line No. 7 to New Thebarton, and thence, *via* Henley Beach, to Tramway Line No. 6, at or near Kirkcaldy Beach, and for other purposes.

[Assented to, November 18th, 1881]

WHEREAS the Adelaide and Hindmarsh Tramway Company, Limited, registered and incorporated under the "Companies Act, 1864," by a Private Act passed in the Session holden in the fortieth and forty-first years of the reign of Her present Majesty Queen Victoria, intituled the "Adelaide and Hindmarsh Tramways Act, 1877," obtained the authority of Parliament to form, lay down, construct, maintain, and work the tramways in the said Private Act set forth: And whereas the said the Adelaide and Hindmarsh Tramway Company, Limited, have constructed, maintained, and worked certain of the tramways in the said Act mentioned to great local and public advantage: And whereas the extension of certain of the said Company's tramways to New Thebarton, and thence, *via* Henley Beach, to the extremity of tramway line No. 6, at or near Kirkcaldy Beach, in such a manner as not to impede or injure ordinary traffic, would be productive of further local and public benefit and convenience: And whereas the said the Adelaide and Hindmarsh Tramway Company, Limited, is willing and ready, at its own expense, to construct maintain,

Preamble.

Adelaide and Hindmarsh Tramways Extension Act.—1881.

maintain, and work the said extended tramways in addition to and in conjunction with certain of their said present lines of tramway, but the authority of Parliament is requisite to enable the Company so to do, and it is therefore desirable to confer on the Company all rights, powers, privileges, and immunities necessary or convenient for the construction, maintenance, and working of such extended lines of tramway—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

Short Title.

1. This Act may for all purposes be cited as the “Adelaide and Hindmarsh Tramways Extension Act, 1881.”

Incorporation.

2. The said the “Adelaide and Hindmarsh Tramways Act, 1877,” shall be incorporated with and form part of this Act.

Interpretation.

3. In the construction of this Act, unless there shall be something in the subject matter or context repugnant to such meanings, and except when altered by this interpretation clause, the meanings which have been assigned by the “Lands Clauses Consolidation Act,” and by the “Adelaide and Hindmarsh Tramways Act, 1877,” to certain words and expressions in the said last mentioned Acts, shall be attributed to such words and expressions whenever they occur herein—

The expression “the tramways” shall mean the tramways or any part thereof authorised to be constructed by this Act:

The expression “the deposited plan” shall mean the plan of the tramways and the book of reference thereto, which were deposited on the 18th day of June, 1881, in the office of the Examiner for Private Bills, in the office of the Surveyor-General, in the office of the Local Board of Main Roads, Central Division, and in the offices of the District Councils of West Torrens and Woodville:

The expression the “principal Act” shall mean the “Adelaide and Hindmarsh Tramways Act, 1877.”

Power to make tramways.

4. In addition to the tramways authorised by the principal Act, and subject to the provisions of this Act, the Company may make, form, lay down, construct, maintain, and work on the lines shown in the plans, the tramways hereinafter described, and also the curves and turnouts shown in the said deposited plans, or such portion thereof as the Company may think expedient, with all proper rails, plates, works, sidings, junctions, stations, approaches, and conveniences connected therewith, and may enter upon, purchase, take, and use such of the lands delineated and described in the deposited plan (if any) as they may require for such purposes.

5. The

Adelaide and Hindmarsh Tramways Extension Act.—1881.

5. The tramways hereinbefore referred to and authorised by this Act are as follows :— Description of tramways.

A tramway, "No. 7 Extension," four furlongs six chains and seven links or thereabouts in length, commencing at a point at the junction of the Henley Beach Road and Taylor's Bridge Road, being the extremity of tramway line No. 7, and thence passing as a single line along the said Henley Beach Road to a point in the said Henley Beach Road about one hundred and twenty feet west of the junction of the said Henley Beach Road and a new street called Henley-street there :

A tramway, No. 8, five miles one furlong eight chains and seventy-one links or thereabouts, commencing at a point in the Henley Beach Road about one hundred and twenty feet west of the junction of the said road and a new street called Henley-street there, and passing as a single line along the said Henley Beach Road to Sea View Road, at Henley Beach, and along the said Sea View Road and Adelaide-terrace to Beach-street, to the western extremity of tramway line No. 6.

6. Clause 5 in the principal Act is hereby repealed, so far as relates to tramway lines No. 2 and No. 3, and that portion of tramway line No. 4 between the Company's stables and land on part section 372 and the south-eastern corner of the section 47 ; and all powers granted to the said Company in respect of the said lines No. 2, No. 3, and the said portion of line No. 4, shall, from the passing of this Act, absolutely cease. Part repeal of principal Act.

7. The centre line of every tramway shall be parallel to the centre line of the street in which such tramway shall be laid, and shall be at a distance of not less than nine feet therefrom, except where the line of such tramway shall be a curve, as shown in the deposited plan. Centre lines of tramways.

8. Whenever any road upon which the tramways are hereby authorised to be constructed shall be of a less width than sixty feet, the Company, if called upon so to do by the street authority, shall cause the said road to be increased to a width of not less than sixty feet: Provided always that the road authority giving such notice shall be liable to pay to the Company half the cost of widening such road: Provided also that the street authority shall have power to purchase and take all lands required for such purpose. Roads to be widened,

9. Before opening the said tramways for traffic the Company shall fill up all ditches existing on the roads along which the said tramways are proposed to be constructed, so that the whole width of all such roads shall be available for traffic. Ditches to be filled up.

10. Notwithstanding anything in the deposited plans contained, the Company shall not carry the tramways across bridge marked Company to erect new bridge.
bridge

Adelaide and Hindmarsh Tramways Extension Act.—1881.

bridge No. 2 in the said deposited plans, but shall erect a new bridge alongside of the same to the satisfaction of the street authority, over which bridge the said tramways shall pass.

Completion and maintenance of tramways.

11. The tramway "No. 7 Extension" shall be completed fit for traffic within one year, and the tramway No. 8 within two years, from the passing of this Act, or within such further times respectively (if any) not exceeding twelve months from the end of such one year and two years respectively, as the Governor may see fit to allow; and from and after the end of the said one year and two years, respectively, or of such further time (if any) as may have been allowed for constructing the tramways, the Company shall provide cars in sufficient numbers to travel along the tramways hereby authorised between the respective termini thereof at least six times each way between the hours of seven in the morning and eleven in the evening of every day except Sunday.

Rails to be guarded.

12. Clause 8 in the principal Act shall be read and construed as though the words "and all such rails shall be guarded with wooden rails or blocks of stone laid close to and parallel with the rail to be constructed and laid to the satisfaction of the street authorities," were inserted after the concluding word of the said clause.

Tolls and charges.

13. The provisions and regulations as to fees, tolls, and charges for the conveyance of passengers and goods payable under the principal Act shall apply to the tramways authorised by this Act.

Security from treasurer.

14. The Company, prior to engaging any treasurer, manager, superintendent, receiver, ticket clerk, collector, inspector, or servant to be entrusted with the collection or custody of any moneys in connection with, or for the use of, the tramways hereby authorised, shall receive from such person entrusted as aforesaid a bond, with sufficient sureties, conditioned in such an amount as the directors of the Company may deem sufficient as security for the repayment of any moneys which shall be found wanting or deficient when the accounts and receipts of such person are investigated.

Payment of capital subscribed to be compelled.

15. All moneys at any time becoming due to the Company in respect of calls made upon shares not fully paid up, but subscribed for the purpose of constructing and maintaining the tramways hereby authorised, shall be debts due by such shareholders respectively, and recoverable by action accordingly.

Accounts to be kept.

16. The said Company shall cause to be kept by competent officials full and particular accounts of all moneys received by the Company, whether by reason of the fees, tolls, and charges hereby authorised, or in any other manner whatsoever, and shall keep full and particular accounts of all moneys, outgoings, and debts expended or owing by or on behalf of the said Company in connection with the said tramways, and shall, once at least in every year, cause a balance to be made of all such accounts, which balance and

Adelaide and Hindmarsh Tramways Extension Act.—1881.

and the report therewith shall be audited in manner hereinafter mentioned and provided.

17. Notwithstanding anything in the Company's articles of association, the Company shall, once at least in every year, cause such accounts to be submitted to two auditors to be appointed by the shareholders of the Company, and such auditors shall, for the purpose of assisting them in the preparation of a full, true, and and impartial report, be supplied by the directors of the Company with all books, accounts, memoranda, and vouchers relating in any-wise to the affairs of the said Company.

Accounts to be audited.

18. The remuneration of such auditors shall be fixed by the shareholders of the Company at the time of their appointment, and shall be payable out of the funds of the Company.

Remuneration auditors.

19. The Company shall also, once in every year at the least, cause to be prepared an abstract of such accounts showing the total amount realised by the said fees, tolls, charges, and other payments hereby authorised to be made, and also of all outgoings, debts, expenses, and liabilities incurred by or on behalf of the Company, together with a statement of the balance of the account duly audited, which statement shall be signed and approved by such auditors, and by the chairman of the directors of the Company, and the Company shall cause to be transmitted one copy of such account, free of charge, to the Auditor-General of the said province on or before the thirty-first day of January in every year: In the event of the Company not forwarding such account at the time hereinbefore provided, they shall forfeit and pay a sum or penalty of Five Pounds for every day during which the said account is withheld from the Auditor-General, and the said account shall, after due inspection by the Auditor-General, be filed by him in his office, and shall be open to the inspection of the public at all reasonable hours on payment of the sum of One Shilling.

Abstract of accounts to be annually transmitted to Auditor-General.

Penalty.

Auditor-General to file abstract.

20. Notwithstanding anything contained in the said principal Act, the Company shall not have power to raise by loan or mortgage any sum exceeding one-third part of the capital of the Company, nor shall it be lawful for the Company to raise any sum whatsoever, whether on loan or mortgage, unless and until an amount equal to one-half of the capital of the Company shall have been fully paid up by the shareholders thereof.

Restrictions as to mortgage.

21. Whereas, pursuant to the Standing Orders of the Legislative Council of this province, a sum of Four Hundred and Fifty-seven Pounds, being one-twentieth of the amount of the estimate in respect of the tramways authorised by this Act, has been deposited in the Treasury of the said province: Be it Enacted—That the said sum of Four Hundred and Fifty-seven Pounds, so deposited as afore-said, in respect of the application for this Act, shall not be paid or transferred to, or on the application of, the person or persons depositing

Deposit to be impounded as security for completion of line.

depositing the same, or their successors or representatives, unless the said Company shall, previously to the expiration of the periods limited by this Act for completion of the tramways hereby authorised to be made, either open the said tramways for the public conveyance of passengers, or prove to the satisfaction of the Commissioner of Public Works that the said Company have paid up one-half of the amount of the capital raised by means of shares for the construction of the said tramways, and have expended for the purpose of this Act a sum equal in amount to such one-half of the said capital; and if the said period shall expire before the Company shall either have opened the tramways for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the Commissioner of Public Works, the said sum of money deposited as aforesaid shall be applied in the manner hereinafter specified, and the certificate of the said Commissioner shall be sufficient evidence of the fact so certified: Provided always, that if the aforesaid conditions for repayment of the said sum of Four Hundred and Fifty-seven Pounds shall be complied with, such sum shall thereupon be repaid to the said Company by the Treasurer.

Application of deposit
or penalty in compen-
sation to parties
injured.

22. The said sum of money deposited as aforesaid shall be applicable, and, after due notice in the *Government Gazette*, shall be applied towards compensating any person whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said tramways, or any portion thereof; or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid, and also in compensating all street authorities for the expenses incurred by them in taking up any tramway or materials connected therewith, placed by the Company in or on any road, vested in or maintainable by such street authorities respectively; and in making good all damages caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportion as to the Supreme Court or any Judge thereof may seem fit; and if no such compensation shall be payable, or if a portion of such sum shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money, or such portion thereof as may not be required as aforesaid, shall be forfeited to Her Majesty, and accordingly be paid or transferred to and form part of the revenue of the province in such manner as the said Court or Judge thinks fit to order on application of the Attorney-General, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the said Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

23. If

Adelaide and Hindmarsh Tramways Extension Act.—1881.

23. If the whole of the tramways authorised by this Act shall not be completed within the periods limited by this Act, then, on the expiration of such periods, all the powers by this Act granted to the Company shall cease.

If line not completed, power to cease.

24. After the lapse of three years from the passing of this Act the payment of any dividend on the ordinary and unguaranteed capital of the Company shall be suspended until the tramways hereby authorised shall have been completed and thrown open for the conveyance of the public.

Penalty on non-completion of line.

25. It shall not be lawful for the Company to employ any part of the capital raised by payment of calls for the purpose of paying any sum or sums of money as interest or dividends upon such calls.

No interest or dividends to be paid out of capital.

26. The Company shall not out of the capital raised for the purposes of the principal Act pay the deposit money referred to in the twenty-first section hereof.

Deposit not to be paid out of capital raised for purposes of principal Act.

27. Nothing herein contained shall be deemed or construed to exempt the tramways by this Act authorised to be made from the provisions of any general Act relating to tramways now in force, or which may hereafter pass during this or any future Session of Parliament or from any future revision and alteration under the authority of Parliament of the maximum rates of fares and charges authorised by this Act.

Tramway not to be exempt from general Acts.

28. Notwithstanding anything in the principal Act contained, at any time after the expiration of fourteen years from the time of the passing of this Act, it shall be lawful for the Government to purchase the said tramways and undertaking, at a price to be determined in manner specified in the sixtieth section of the principal Act, with reference to the purchase by the Corporation of the City of Adelaide of the tramways thereby authorised; and if at any future time the Government shall construct or erect any line or lines of tramway or railway, the construction or erection of which may injuriously affect, whether by competition or otherwise, the lines of tramway hereby authorised, the Company shall not be entitled to receive or claim any compensation from the Government by reason of such damage or injury.

Government may purchase tramways.

Government not bound to compensate.

29. From and after the passing of this Act, clause 60 in the principal Act shall be construed and read as though the words "seven years from the passing of this Act," in the first and second lines of the said clause, were struck out, and the words "three years after the passing of the 'Adelaide and Hindmarsh Tramways Extension Act, 1881,'" were inserted in lieu thereof, and as though the words "Corporation of the City of Adelaide," in the fifth line of the said clause and the word "Corporation" wherever it may appear in the said clause, were struck out, and the words "Government of the province" were inserted in lieu thereof; and clauses 61 and 62

Government may purchase lines authorised by principal Act.

in

Adelaide and Hindmarsh Tramways Extension Act.—1881.

in the said Act shall be read as if the word "Corporation," wherever it may appear in the said clause, was struck out, and the words "Government of the province" were inserted in lieu thereof.

Application of principal Act.

30. Except where inconsistent with the provisions of this Act, all provisions contained in the principal Act regulating the construction and maintenance of the tramways and undertaking thereby authorised shall apply to the construction and maintenance of the tramways and undertaking hereby authorised, and all rights, powers, and liabilities vested in and affecting the Company and other persons by virtue of the principal Act in any matter relating to the tramways and undertaking thereby authorised, shall be vested in, and affect in a similar manner the said Company and all other persons in reference to the tramways and undertaking hereby authorised, and all fines, penalties, and forfeitures for any offence against the provisions of the principal Act shall be payable and recoverable in respect of similar acts and offences in reference to the tramways and undertaking hereby authorised, and all provisions contained in the principal Act as to evidence and procedure shall apply to similar matters in reference to tramways and undertaking hereby authorised; and for the purposes aforesaid the tramways and undertaking thereby authorised shall be deemed to comprise the tramways and undertaking hereby authorised.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to authorise the construction, maintenance, and working of a Tramway for horse traction in and between certain parts of the City of Adelaide and the Town of Goodwood, and places suburban thereto, and for other purposes.

[*Assented to, November 18th, 1881.*]

WHEREAS the construction, maintenance, and working of a tramway for horse traction in and between certain parts of the City of Adelaide and the Town of Goodwood, and places suburban thereto, in such a manner as not to impede or injure ordinary traffic, would be of great local and public advantage: And whereas a Joint Stock Company has been lately registered and incorporated under "The Companies Act, 1864," by the name of the "Adelaide and Goodwood Tramway Company, Limited," with the objects (amongst others) of constructing, maintaining, and working such tramway as is hereinbefore referred to, and of obtaining an Act of the Parliament of South Australia for empowering and better enabling the Company to carry out its objects: And whereas the said Company is willing, at its own expense, to construct, maintain, and work the said tramway in manner hereinbefore mentioned, but the authority of Parliament is requisite to enable the Company so to do, and it is therefore desirable to confer on the Company all rights, powers, privileges, and immunities necessary or convenient for the construction, maintenance, and working of such tramway—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. This

*Adelaide and Goodwood Tramway Act.—1881.***Short title.**

1. This Act may for all purposes be cited as the “Adelaide and Goodwood Tramway Act, 1881.”

Incorporation.

2. “The Lands Clauses Consolidation Act” shall be incorporated with and form part of this Act.

Interpretation.

3. In the construction of this Act, unless there shall be something in the subject matter or context repugnant to such meanings—

The meanings which have been assigned by “The Lands Clauses Consolidation Act” to certain words and expressions shall be attributed to such words and expressions wherever they occur herein:

The expression “the Company” shall mean the “Adelaide and Goodwood Tramway Company, Limited”:

The expression “the tramway” shall mean the tramway by this Act authorised, or any part thereof:

The expression “the deposited plans” shall mean as well the plan of the tramway and the book of reference thereto, which were deposited in the office of the Surveyor-General on the fourteenth day of July, one thousand eight hundred and eighty-one, as the plan of portion of the line of tramway which was, on the twenty-fourth day of October, one thousand eight hundred and eighty-one, deposited at the said office:

The expression “street” shall mean any public street, road, foot-path, or place along or across which the tramway is authorised to be laid:

The expression “the street authority” shall mean the persons having the control or management of the street in respect of which such expression shall be used, if the same shall be used in respect of any particular street; but if such expression shall not be used in respect of any particular street, it shall mean any persons having the control or management of any street.

Plan to have effect as amended.

4. The said plan deposited on the fourteenth day of July, one thousand eight hundred and eighty-one, shall have effect as amended, altered, or varied by the said plan deposited on the twenty-fourth day of October, one thousand eight hundred and eighty-one.

Power to make tramways.

5. Subject to the provisions of this Act, the Company may make, form, lay down, construct, maintain, and work on the lines shown in the deposited plans the tramway hereinafter described, or such portion thereof as the Company may think expedient, with all proper rails, plates, works, sidings, junctions, stations, approaches, and conveniences connected therewith, and may enter upon, purchase, take, and use such of the lands delineated and described in the deposited plans as they may require for such purposes: Provided that

Adelaide and Goodwood Tramway Act.—1881.

that no tramway shall be carried or maintained across the Adelaide and Glenelg Railway so as to obstruct the traffic on the said railway.

6. The tramway hereinbefore referred to and authorised by this Act is as follows— Description of tramway.

A tramway, three miles three furlongs one chain and eighty-two links or thereabouts in length, commencing at a point in King William-street, distant in a northerly direction from Waymouth-street ninety feet or thereabouts, thence passing along King William-street, Waymouth-street, Morphett-street, Brown-street, Gouger-street, West-terrace, and the Goodwood Road to a point at or near the junction of the Goodwood and Glen Osmond Roads.

7. Notwithstanding anything to the contrary appearing in the deposited plan, the lines of the tramway shall be laid in such positions and places in the streets in which such tramway shall be laid as the street authorities shall point out and direct: And in the event of the street authorities neglecting to direct and point out such positions and places for the period of fourteen days after they shall have been requested in writing by the Company so to do, the Company may proceed to lay down the lines of tramway: And in such event, the lines of the tramway (except the curves which may be necessary at the points marked a, b, c, d, e, f, and g upon the deposited plan, and except the turn-outs, shown in the deposited plan) shall be as follows:—The centre line of the tramway in King William-street, Waymouth-street, Morphett-street, and Brown-street, shall be the centre line of such streets, or shall run parallel therewith at any distance not more than nine feet therefrom; the centre line of the tramway in Gouger-street and West-terrace shall run parallel with the centre line of such streets at any distance not less than seven nor more than eleven feet therefrom; the centre line of the tramway in the Goodwood Road, between the points marked e and S² upon the deposited plan, shall run parallel with the line centre of such road on the west side thereof, and at any distance not less than seven nor more than eleven feet therefrom. Centre line of tramways.

8. It shall not be lawful for the Company to alter the levels of any street. Company not to alter street levels.

9. In all cases when the tramway or any part thereof is proposed to be constructed on roads which are only partially made and metalled, the Company shall, before constructing the tramway along such roads, make and metal so much of the roadway as shall leave a clear metalled space of not less than twelve feet between the lines if a double line of tramway is proposed to be made, or on one side of the line if a single line of tramway is proposed to be made; such additional width of roadway to be made and metalled to the satisfaction of the road authorities. Company to widen roads partially made.

10. The

Adelaide and Goodwood Tramway Act.—1881.

Company, if required,
to make bridges.

10. The Company shall, if required by the street authorities, make and construct such additional width to the two existing bridges on the Goodwood Road (shown in the deposited plan), and in such manner as the street authorities shall direct, and may do and perform all acts necessary for such purpose.

Line to be guarded
with wood or stone.

11. The tramway line shall be constructed and maintained with two rails, to be laid at a distance of four feet eight and one-half inches from each other, and shall be constructed and maintained in such a manner that the uppermost surface of every rail shall be on a level with the surface of the street; and the rails used in the construction of every tramway shall be of iron or steel, and of the weight of not less than twenty pounds to the yard, and such rails shall be grooved, the groove not exceeding one and one-quarter inches in width; and all such rails shall be guarded on the outer side thereof with wooden rails or blocks of stone, laid close to and parallel with the rail, to be constructed to the satisfaction of the street authorities.

Tramways not to
impede traffic.

12. The tramway shall be constructed and maintained in such a manner as not to cause any impediment or injury to the use by the public for the purpose of traffic of any street whereon the same shall be laid, and the public shall at all times be entitled to the free and uninterrupted use of every part of such street, save when any conveyance of the Company shall be passing over or be about to pass over any part thereof, or be standing thereon, and then the public shall not be entitled to the use of the part of such street over which such conveyance shall be passing or be about to pass, or upon which such conveyance shall be standing: Provided that no such conveyance shall stand at any point in any street other than a terminus of the tramway, except for the purpose of taking up or setting down passengers.

Company to have no
right to soil of street.

13. Nothing in this Act contained shall be construed to give the Company any right to the soil of any street in which they shall construct the tramway other than a right of user thereof for the purposes of this Act.

Power to break up
street.

14. Subject to the provisions of this Act, the Company may from time to time open and break up any street for the purpose of making, forming, laying down, constructing, maintaining, or renewing the tramway.

Restrictions on break-
ing up street.

15. Whenever the Company proceed to open or break up any street—

i. They shall give to the street authority thereof notice of their intention, specifying the time at which they will commence operations, and the portion of street proposed to be opened or broken up, such notice to be given seven days at least before the commencement of operations:

ii. They shall not open or break up any street except under the superintendence

Adelaide and Goodwood Tramway Act.—1881.

superintendence and to the reasonable satisfaction of the street authority thereof, unless such authority refuses or neglects to give such superintendence at the time specified in the Company's notice, or discontinues the same during the work :

- III. They shall pay to the street authority all reasonable costs incurred on account of such superintendence.

16. If any person shall wilfully obstruct any person acting under the authority of the Company in the lawful exercise of his powers in setting out or making, forming, laying down, repairing, or renewing the tramway, or shall deface or destroy any mark made for the purposes of setting out the line of the tramway, or shall wilfully damage or destroy any property of the Company, he shall, for every such offence, forfeit to the Company a sum not exceeding Five Pounds.

Penalty on persons obstructing formation of tramways.

17. The Company shall not, without the consent of the street authority thereof, open or break up at any one time and place a greater length than fifty yards of any street, and they shall leave an interval of at least one hundred yards between any two places at which they shall open or break up any street at the same time.

Restriction on length of streets to be broken up at same time.

18. As soon as the Company shall have opened or broken up any portion of any street—

Company to restore streets broken up.

- i. They shall, with all convenient speed, and in all cases within three weeks at the most from the time of opening or breaking up the same (unless the street authority thereof shall enlarge such time), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, and renewal of the tramway) fill in the ground and make good the surface, and generally restore the portion of the street so opened or broken up to as good condition as that in which it was before it was opened or broken up, and to the reasonable satisfaction of the street authority thereof, and clear away all surplus metal, material, or rubbish occasioned thereby, and remove the same to such spot in the municipality wherein any such street shall be situated, as the street authority of such street shall direct :

- ii. They shall in the meantime cause the place where the street is broken up to be properly lighted at night, for the protection of man and beast.

19. If the Company shall in any respect fail to comply with the provisions of the preceding section they shall for every such offence (without prejudice to any other remedy against them) be liable to a penalty not exceeding Twenty Pounds, and to a further penalty not exceeding Five Pounds for each day during which any such failure shall

Penalty on breach of section 16.

Adelaide and Goodwood Tramway Act.—1881.

shall continue after the first day on which such penalty is incurred ; and all such penalties shall go and belong to the street authority of the street in question.

Preservation of powers
of street authority.

20. Nothing in this Act contained shall take away any power for the time being vested in any street authority to open or break up any street in which the tramway shall be laid for any necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any sewer, gully, gutter, drain, watercourse, defence, or work, or altering the levels of any street: Provided that in the event of the levels of any street being altered, the Company shall alter the levels of the tramway to correspond with such alteration ; Provided also, that in the exercise of such power the street authority and Company shall be subject to the following provisions—

- I. The street authority shall cause as little detriment or inconvenience to the Company as circumstances will admit :
- II. Before commencing any work whereby the traffic on the tramways may be interrupted, or whereby the safety of any persons using the tramway may be endangered, the street authority shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work, specifying the time at which they will commence, and which shall not be earlier than forty-eight hours after the time of the giving of such notice :
- III. If the street authority for the purpose of enabling them to execute the work shall so require, by any notice given as aforesaid, the Company shall either stop their traffic on that portion of the tramway where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work, and the street authority shall thereupon complete the work with all reasonable expedition :
- IV. If it shall become necessary to remove the tramway from any part of any street to enable any such work to be effected, it shall be lawful for the Company to lay down the tramway so removed in some adjacent and convenient position, and after such work shall have been effected to replace the tramway in its original position, and the cost of such laying down and replacing shall be borne by the street authority of the street where the same is effected.

Preservation of power
of other persons.

21. Nothing in this Act contained shall take away any power for the time being vested in any persons to open or break up any street on which the tramway shall be laid for any necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes ; but in the exercise of such

Adelaide and Goodwood Tramway Act.—1881.

such power such persons shall be subject to the following restrictions—

- i. They shall cause as little damage or inconvenience to the Company as circumstances will admit:
- ii. Before commencing any work whereby the traffic on the tramway may be interrupted or whereby the safety of any persons using the tramway may be endangered, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work, specifying the time at which they will commence, and which shall not be earlier than forty-eight hours after the time of the giving of such notice:
- iii. They shall not execute such work, so far as it immediately affects the tramway, except under the superintendence and to the reasonable satisfaction of the Company, unless the Company refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the work:
- iv. If it shall become necessary to remove the tramway from any part of any street to enable any such work to be effected, it shall be lawful for the Company to lay down the tramway so removed in some adjacent and convenient position, and after such work shall have been effected to replace the tramway in its original position, and the cost of such laying down and replacing shall be borne by such persons.

22. For the purpose of making, forming, laying down, maintaining, repairing, or renewing their tramway, the Company may from time to time, where and as far as it is necessary, alter the position of any mains or pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, subject to the following restrictions, that is to say—

Provision as to water-works and gas companies.

- i. Before laying down or altering the tramway in a road in which any mains or pipes, tubes, wires, or apparatus may be laid (other than private service pipes), the Company shall, whether they contemplate altering the position of any such mains or pipes, tubes, wires, or apparatus or not, give seven days' notice to the person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such person that the construction of the tramway as proposed would endanger the same, or interfere with or impede the supply of water or gas, or the telegraphic or other communication, such person may give notice to the Company to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus, in such manner

Company may alter position of gas and waterpipes.

Adelaide and Goodwood Tramway Act.—1881.

manner as may be considered necessary. And all alterations to be made under this section shall be made with as little detriment and inconvenience to the person to whom such mains, pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such person, of their or his surveyor or engineer, if they or he think fit to attend after receiving not less than twenty-eight hours' notice for that purpose, which notice the Company are hereby required to give :

Company not to disturb pipes until they have laid down other for continuing the supply of water and gas.

II. The Company shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such person, or do anything to impede the passage of water or gas, or the telegraphic or other communication into or through such mains or pipes without the consent of such person, or in any other manner than such persons shall approve, until good and sufficient mains, pipes, valves, syphons, plugs, and other works necessary or proper for continuing the supply of water or gas, or telegraphic or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall at the expense of the Company have been first made and laid down in lieu thereof and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other Company, or of such person ; or in case of disagreement between such surveyor and engineer and the Company, as an engineer appointed by the Corporation of the City of Adelaide shall direct:

Pipes not to be laid contrary to Acts.

III. The Company shall not lay down such pipes contrary to the regulations of any Act of Parliament relating to such water, or gas, or other Company, or relating to telegraphs.

For protection of sewers.

23. Where the tramway or any other work connected therewith interferes with any sewer, drain, watercourse, defence, or work under the jurisdiction or control of the Corporation of the City of Adelaide, or the street authority, or with any sewers or works to be made or executed by the said Corporation or street authority, or in any way affects the sewerage or drainage of the district under their or any of their control, the Company shall not commence any tramway or work until they shall have given to the street authority fourteen days' previous notice, in writing, of their intention to commence the same, by leaving such notice at the principal office of such street authority for the time being, with all necessary particulars, nor until such street authority shall have signified their approval of the same, unless they do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid ; and the Company shall comply with and conform to all reasonable directions

Adelaide and Goodwood Tramway Act.—1881.

directions and regulations of such authority in the execution of the said works, and shall provide new, altered, or substituted works in such manner as the said street authority shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, or by reason of the tramways, and shall save harmless the street authority against all and every expense to be occasioned thereby, and all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the street authority, at the reasonable costs, charges, and expenses in all respects of the Company, and when any new, altered, or substituted work as aforesaid, or any work or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the Company under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the street authority, and be maintained by them, as the case may be, as any sewers or works now or hereafter may be.

24. The Company shall be answerable for all accidents, damages, and injuries happening through the act or default of the Company, or of any person in their employment, by reason or in consequence of any of the works of the Company, and shall indemnify all street authorities and persons from all damages and costs in respect of such accidents, damages, and injuries.

Company to be liable for accidents.

25. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the end of three years from the passing of this Act.

Cesser of powers of compulsory purchase.

26. The tramway shall be constructed, fit for traffic, within two years from the passing of this Act, or within such further time, if any, not exceeding twelve months from the end of such two years, as the Governor may see fit to allow, and upon the expiration of the said two years, or of such further time (if any) as may have been allowed as aforesaid, the powers by this Act granted to the Company for constructing the tramway shall cease to be exerciseable.

Completion of tramways.

27. The Company shall at all times keep the tramway in good repair and working order, and after the end of the said two years, or of such further time (if any) as may have been allowed pursuant to the preceding section for constructing the tramways, the Company shall provide cars in sufficient numbers to travel along the tramway from King William-street to the southern terminus of the tramway at least ten times each way between the hours of seven o'clock in the morning and ten o'clock in the evening of every day except Sunday.

Maintenance of tramways.

28. The Company shall at their own expense at all times maintain and keep in good condition and repair with such materials in such manner as the street authority shall direct, and to their satisfaction, so much of any road whereon the tramway of the Company

Repairs of part of street where tramway is laid.

is

Adelaide and Goodwood Tramway Act.—1881.

is laid as lies between the rails of the tramway, and so much of the road as extends eighteen inches beyond the rails of and on each side of the tramway of the Company. If the Company abandon their undertaking or any part of the same, and take up the tramway or part of the tramway belonging to them, they shall with all convenient speed and in all cases within six weeks at the most (unless the said street authority otherwise consents in writing) fill in the ground and make good the surface, and to the satisfaction of the said street authority restore the portion of road upon which such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work; and they shall in the meantime cause the place where the street is opened or broken up to be fenced and watched, and to be properly lighted at night: Provided always, that if the Company fail to comply with the provisions of this section, the street authority, if they think fit, may themselves at any time after seven days' notice to the Company, open and break up the road, and do the work necessary for the paving, repair, and maintenance of the road to the extent in this section above mentioned instead of the Company, and the expense incurred by the said street authority in so doing shall be repaid to them by the Company.

Proviso.

Motive power, speed, and description of cars.

29. The cars of the Company shall be drawn by horses, and each car shall be furnished with a brake which can be worked at each end of such car, and no car shall extend beyond the outer edge, of its wheels more than eleven inches at each side, and no car shall travel on the tramway at a speed greater than shall be allowed by law, or by the by-laws of the street authority of the street in which such car shall be travelling; and any person driving any car on the tramway at a greater speed shall be liable to a penalty not exceeding Five Pounds, or be imprisoned and kept to hard labor for any period not exceeding six calendar months.

Company to have exclusive use of tramways.

30. The Company may use on the tramway cars with flange wheels, or wheels specially or particularly adapted to run on a grooved rail, and subject to the provisions of this Act, the Company shall have the exclusive use of the tramway.

Penalty for using tramways.

31. If any person other than the Company (except by agreement with the Company) shall wilfully use the rails of the tramway for the purpose of driving or propelling any conveyance thereon, such person shall forfeit and pay to the Company a sum not exceeding Twenty Pounds for every such conveyance using, and for every time that it uses, such rails.

Company may make arrangements for use of tramways.

32. The Company and any other person may from time to time make and enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use by such other person of the tramway, and the tolls, rates, and charges to be paid for such use, and the terms and conditions of such user and all incidental matters.

33. If

Adelaide and Goodwood Tramway Act.—1881.

33. If any person, without lawful excuse, the proof whereof shall lie on him, shall wilfully do any of the following things, namely—

Penalties for interference with Company's use of tramways.

- i. Interfere with, remove, or alter any part of the tramway of the Company, or of the works connected therewith :
- ii. Place or throw any stones, dirt, wood, refuse, or other material on any part of any tramway :
- iii. Do, or cause to be done, anything so as to hinder or obstruct any car lawfully using the tramway, or to endanger the lives of persons thereon or therein :
- iv. Hinder or obstruct, or endeavor to hinder or obstruct, any person from getting in or out of any car lawfully using the tramway, either by shepherding such car or otherwise :
- v. Or knowingly aid or assist in the doing of any such thing :

he shall for every such offence, in addition to any proceedings by way of indictment or otherwise to which he may be liable, forfeit to the Company a sum not exceeding Twenty Pounds.

34. The Company may demand and take for every passenger conveyed upon the tramway, for the use of the tramway and cars and for motive power, and every other expense incidental to the conveyance of such passenger, any tolls or charges not exceeding the sum of Twopence per mile ; but so that for every passenger conveyed for a distance less than three miles, the Company may demand tolls and charges as for three miles, and for every fraction of a mile beyond three miles, or beyond any greater integral number of miles, the Company may demand tolls and charges for a mile.

Tolls and charges.

35. Every passenger travelling upon the tramway may take with him his ordinary personal luggage without any charge being made for the carriage thereof, but so that the weight of such luggage shall not exceed twenty pounds.

Passenger may take luggage.

36. The Company shall not be bound, unless they shall think fit, to carry any animals whatever, nor any goods other than passengers' luggage, not exceeding the weight mentioned in the last preceding section.

Company not bound to carry goods.

37. A list of all the tolls and charges authorised by this Act to be taken, and which shall be demanded by the Company, shall be exhibited in some conspicuous place in the inside of each of the cars used by the Company upon the tramway.

List of tolls and charges to be exhibited.

38. The tolls and charges authorised by this Act to be taken, and which shall be demanded by the Company, shall be paid to such persons and at such places upon or near the tramway, and in such manner and under such regulations as the Company shall by notice to be annexed to the list of tolls appoint.

Mode of payment of tolls and charges.

39. If

Adelaide and Goodwood Tramway Act.—1881.

Penalties on evasion
of payment of fare.

39. If any person travelling, or having travelled in or on any car of the Company shall avoid or attempt to avoid payment of his fare, or if any person having paid his fare for a certain distance shall proceed in or on any such car beyond such distance, and shall not pay his fare for the additional distance, or shall attempt to avoid payment thereof, or if any person refuse or neglect on arriving at the point to which he has paid his fare to quit such car, every such person shall for every such offence forfeit to the Company a sum not exceeding Forty Shillings.

Power to detain cer-
tain offenders.

40. It shall be lawful for any officer or servant of the Company, and all persons called by him to his assistance, to seize any person who shall be discovered to be committing any offence in the preceding section mentioned, and whose name and residence shall be unknown to such officer or servant, and to detain such person until he can be conveniently taken before a Justice, or until he be otherwise discharged by due course of law.

No person to carry
dangerous goods on
tramways.

41. No person shall carry on the tramway any aquafortis, oil of vitriol, gunpowder, or other goods which may be of a dangerous nature; and if any person shall carry such goods on the tramways he shall forfeit any sum not exceeding Twenty Pounds for every such offence, and it shall be lawful for any authorised servant of the Company, or any constable or Justice of the Peace, to require any parcel that they may suspect to contain any such goods to be opened in order to ascertain the fact.

Limits on tolls and
charges not to apply
to special cars.

42. The restrictions in this Act contained as to the tolls and charges which the company may demand and take for the conveyance of passengers shall not extend to any special car, but shall apply only to the ordinary cars appointed by the Company from time to time for the conveyance of passengers.

Provision for removal
or modification of
dangerous or incon-
venient tramways.

43. If, at the time after the tramway shall have been for one year opened for public traffic, it shall be represented in writing to the Governor by the street authority of any street in which the tramway is laid that, in the opinion of such street authority, the tramway, or some specified part thereof, is dangerous or inconvenient to the public and ought to be removed or modified, the following provisions shall have effect—

- I. The Governor may, by order under his hand, require the Company to remove or modify the tramway or the part thereof specified as aforesaid:
- II. If the Company, within one calendar month after the service of such order, shall give notice in writing under their common seal to the Governor, that they desire that the question as to the necessity or expediency of the removal or modification ordered shall be referred to the decision of an arbitrator to be appointed by the Governor, the question shall be referred accordingly; and upon the appli-
cation

Adelaide and Goodwood Tramway Act.—1881.

cation either of the Company or of the street authority, the Governor shall appoint some impartial person as arbitrator, and the award of the arbitrator with reference to the question referred to him shall be final and conclusive as against all parties, and the arbitrator by his award may, if he thinks fit, direct the removal or modification of the tramway:

- III. Within six calendar months after service upon the Company of the order of the Governor directing the removal or modification of the tramway, or if the Company shall have given notice as aforesaid of their desire that the question as to the necessity or expediency of such removal or modification should be referred, then, within six calendar months after the publication of the award of any arbitrator appointed by the Governor directing the removal or modification of the tramway, or within such earlier time if any as may be limited by such order or award, the Company shall remove or modify the tramway pursuant to the directions contained in such order or award, and the Company shall make good the street in which the tramway removed or modified were or are situate to the reasonable satisfaction of the street authority thereof: Provided that if any modification which the Company may be required to make in the tramways by any such order or award shall be beyond their then existing powers, the Company shall, as soon as conveniently may be, apply to Parliament for the necessary powers to make such modification, and the provisions contained in the next paragraph shall not have effect until the expiration of three calendar months after the Bill to be introduced into Parliament by the Company in compliance with this provision shall have become law, unless such Bill shall be rejected by Parliament or withdrawn:
- iv. If the Company fail to remove or modify the tramway in accordance with the order or award, as the case may be, or to make good the street in manner aforesaid, the removal, modification, or making good may be effected by the street authority of the street in which such tramway are situate, and the amount of the cost thereof, certified by the clerk for the time being of such street authority (whose certificate shall be final and conclusive with reference thereto) shall be repaid to the street authority by the Company on demand:
- v. If the Company fail to pay the amount so certified within one calendar month after delivery to them of the certificate or a copy of the certificate of the clerk of the street authority, the street authority (without prejudice to any other remedy which they may have for the recovery of the amount) may sell and dispose of any materials of the tramway

Adelaide and Goodwood Tramway Act.—1881.

tramway removed or modified which may remain in their hands, either by public auction or private sale, for such price as the street authority shall think fit, and may, out of the proceeds of such sale, pay and reimburse themselves the amount of the cost certified as aforesaid, and all charges and expenses of and incidental to such sale, and the balance (if any) of the proceeds of such sale shall be paid by the street authority to the Company.

Provision in case discontinuance of working of tramways.

44. If at any time after the opening of the tramway for traffic the Company shall discontinue the working thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the Company), it shall be lawful for the street authority of any street to remove the tramway situate in such street, the working whereof shall be so discontinued as aforesaid, and the amount of the cost of such removal and making good, certified by the clerk for the time being of such street authority (whose certificate shall be final and conclusive with reference thereto), shall be repaid to the street authority by the Company on demand, and if the Company fail to pay the amount so certified within one calendar month after delivery to them of such certificate, or a copy thereof, the street authority (without prejudice to any other remedy which they may have for the recovery of the amount), may sell and dispose of the materials of the tramways removed, and apply the proceeds of such sale in manner provided by the last preceding section.

Provision in case of insolvency of Company.

45. If at any time hereafter it shall appear to any street authority that the Company are insolvent so that they are unable to carry out the undertaking with advantage to the public, and the street authority shall make a representation to that effect to the Governor, the Governor may direct an inquiry into the truth of the representation, and if the referee shall find that the Company are so insolvent, the Governor may by order under his hand declare that the powers of the Company under this Act shall cease and determine on the expiration of six months from the date of such order, and (unless Parliament shall in the meantime otherwise declare) such powers shall cease and determine accordingly; and it shall be lawful for the street authority of any street at any time after the expiration of the said six months to remove the tramway situate in such street, and to restore the street to its original state and condition, and to sell and dispose of the materials of the tramway in manner hereinbefore mentioned, and out of the proceeds of such sale to pay and reimburse themselves the amount of the costs (to be certified by the clerk of the street authority, whose certificate shall be final and conclusive) of the removal of the tramway, and restoration of the street, and of the sale, and the balance, if any, of the proceeds of the sale, shall be paid over by the street authority to the Company.

Mode of conducting inquiries.

46. Every inquiry which by this Act the Governor is empowered to

Adelaide and Goodwood Tramway Act.—1881.

to direct shall be made in accordance with the following provisions—

- i. The inquiry shall be held before an officer (hereinafter called the referee) to be appointed in that behalf by the Governor, and the appointment of the referee shall be in writing which shall specify all the matters referred to him :
- ii. Ten days' written notice at the least shall be given by the referee to the Company, and to the street authority upon whose representation the Governor shall have directed the inquiry, of the time and place at which the inquiry is to be commenced :
- iii. The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time, as may be necessary, to such time and place as he may think fit :
- iv. The referee, either on the application of the Company or of the street authority aforesaid, shall by summons require the attendance before himself, at a place and time to be mentioned in such summons, of any person to be examined as a witness before him ; and every person summoned shall attend the referee in obedience to such summons, and answer all questions touching the matter to be inquired into :
- v. The referee shall administer an oath to any person summoned or tendered as a witness on the inquiry :
- vi. The referee shall make his report to the Governor in writing, and shall deliver copies of his report upon request to all or any of the parties to the inquiry :
- vii. The referee shall have power to direct by and to whom the costs, or any part of the costs of the inquiry shall be paid, and he shall also fix the amount thereof :
- viii. The referee shall for all purposes be deemed to be an arbitrator, and his appointment shall be deemed to be a submission to arbitration between the parties to the inquiry in respect of the matters thereby referred to him, and his report shall be deemed to be, and shall have the effect of and be dealt with as, an award made upon such submission, and every such submission, on the application of any party interested in the inquiry, may be made a rule of the Supreme Court.

47. It shall be lawful for the Company from time to time to make by-laws for preventing the commission of any nuisance in or upon any car, or on any of the premises of the Company, and for regulating the travelling upon or using and working of the tramway, and the conduct of the officers and servants of the Company, and

Power for Company
to make by-laws.

Adelaide and Goodwood Tramway Act.—1881.

and generally for providing for the management of the affairs of the Company, and it shall also be lawful for the Company from time to time to repeal or alter any such by-laws: Provided that such by-laws be not repugnant to law.

Penalty for infringement of by-law.

48. Any person offending against any by-law of the Company shall forfeit for every such offence any sum not exceeding Five Pounds, to be imposed by the Company in such by-laws as a penalty for any such offence; and if the infraction or non-observance of such by-laws be attended with danger or annoyance to the public, or hindrance to the Company in the lawful use of the tramway, it shall be lawful for the Company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.

By-laws to be confirmed by Governor.

49. A copy of all by-laws made by the Company shall be sealed with the seal of the Company, and submitted for approval to the Governor, who, on being satisfied that the same are framed in conformity with law, and are reasonable and proper, may confirm the same by writing under his hand; and no by-laws made by the Company shall have any force or effect until the expiration of fourteen days after a copy of such by-laws and of the confirmation thereof by the Governor shall have been published in the *Government Gazette*.

Gazette to be evidence of by-laws.

50. It shall be lawful for the Governor at any time to notify to the Company his disallowance of any by-laws then in force, and the time at which the same shall cease to be in force; and no by-laws which shall be so disallowed shall have any force or effect after the time fixed by the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same: Provided that a copy of such notice shall be published in the *Government Gazette*; and the time of disallowance fixed by such notice shall not be earlier than fourteen days after the date of the first publication of such notice.

Governor may disallow by-laws

51. The production of a copy of the *Government Gazette* containing any notice purporting to be a copy of any by-laws of the Company, and of the confirmation thereof by the Governor, or of the disallowance by the Governor of any by-laws of the Company, shall in all cases and for all purposes be deemed to be conclusive evidence that such by-laws have been duly made and confirmed or disallowed, in manner stated in such notice.

Service of notices.

52. Every notice by this Act required to be given by, or to the Company, shall be in writing or print, or partly in writing or partly in print, and shall be signed by the Company, street authority, or persons giving the same, or by their secretary or clerk; and such notice shall be deemed to have been duly given if left at the principal office of the Company, street authority, or persons to whom the same shall be intended to be given, or if posted in a registered letter, prepaid

Adelaide and Goodwood Tramway Act.—1881.

prepaid, addressed to such Company, street authority, or persons, or their secretary or clerk, at their principal office: Provided that if such notice shall be posted as aforesaid, the same shall be deemed to have been given at the last moment of the day on which the same ought to be delivered at such principal office in the ordinary course of post.

53. Every secretary, accountant, or officer, clerk, or servant of the Company, notwithstanding he may be a shareholder and have a joint interest in the property of the Company, shall be liable to be proceeded against criminally for any offence committed by him in respect of the property of the Company in like manner and in all respects as if he were not a shareholder, and had no such interest.

*Company's officers
liable to be proceeded
against criminally.*

54. Every proceeding under this Act for any omission, default, offence, or act to which any penalty is attached, where no other mode of proceeding is by this Act provided, may be had and taken before and be heard and determined in a summary way by any Special Magistrate or two Justices of the Peace, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, intituled "To Facilitate the Performance of the duties of Justices of the Peace out of Sessions with respect to Summary Convictions and Orders," or of any Act now in force or hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders, and all convictions and orders made by such Magistrate or Justices may be enforced as in the said Ordinance or in any other Act as aforesaid is or shall be provided.

*Proceedings to be
taken under Ordinance
No. 6 of 1850.*

55. There shall be an appeal to the Local Court of Adelaide of Full Jurisdiction only from every conviction by any Special Magistrate or Justices for any offence against this Act; and from every order dismissing any information or complaint, or from any other order made by such Magistrate or Justices under this Act, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts, or any act to be hereafter in force regulating such appeals; but the Local Court of Adelaide aforesaid shall also have power to make such order as to the payment of the costs of the appeal as it shall think fit, although such costs may exceed Ten Pounds.

*Appeal may be had to
Local Court of
Adelaide, Full Juris-
diction.*

56. In each year after the year one thousand eight hundred and eighty-one the Company shall pay to the Corporation of the City of Adelaide, rates calculated on the sum of Two Hundred Pounds per mile, and shall pay to any other street authority, rates calculated on the sum of One Hundred Pounds per mile, as the annual value of the tramway for every mile in length of the streets of such Corporation or street authority, along which such tramway shall be constructed, in the same manner as rates declared and levied upon rateable property by virtue of the "Municipal Corporations Act, 1861," or of any Act amending the same, and such rates shall form
portion

Rating clause.

Adelaide and Goodwood Tramway Act.—1881.

portion of the general revenue of such street authority: Provided that save as in this section provided neither the tramway nor any works connected therewith, nor the cars, horses, rolling-stock, or other things used in working the tramway, shall be liable to the payment of any municipal, district, or other local rates or taxes whatever.

Power to Municipal Council to licence drivers, conductors, &c.

57. The Corporation of the City of Adelaide shall have the like power of making and enforcing rules and regulations, and of granting licences with respect to all carriages using the tramway, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings for the same, as they are for the time being entitled to make, enforce, and grant, with respect to the hackney carriages and the drivers, and other persons having the charge thereof, and to the standings for the same in the streets of or under the control of the Corporation.

Power of street authority preserved.

58. Nothing in this Act shall limit or affect the power of any street authority to regulate the passage of any traffic along or across any street in which the tramway shall be constructed, and such street authority may exercise any such power as well on as off the tramways, and with respect as well to the traffic of the Company as to the traffic of other persons.

Security from treasurer.

59. The Company, prior to engaging any treasurer, collector, receiver, or other officer, to be intrusted with the collection or custody of any moneys in connection with or for the use of the tramway hereby authorised, shall receive from such officer a bond, with sufficient sureties, conditioned in such an amount as the Directors of the Company may deem sufficient as security for the faithful execution of his office.

Payment of capital subscribed to be compelled.

60. All moneys at any time becoming due to the Company by any of its members in respect of calls made upon shares not fully paid up, but subscribed for the purpose of constructing and maintaining the tramway hereby authorised, shall be debts due to the Company by such members respectively, and recoverable by action accordingly.

Accounts to be kept.

61. The said Company shall cause to be kept full and accurate accounts of all moneys received and expended under the provisions of this Act, and shall cause such accounts to be balanced once at least in every year.

Accounts to be audited.

62. The Company shall, once at least in every year, cause such accounts to be submitted to an auditor or auditors, to be appointed by the members of the Company; and such auditor or auditors shall, for the purpose of assisting him or them in the preparation of a full, true, and impartial report, be supplied by the Directors of the Company with all books, accounts, memoranda, and vouchers relating in anywise to the affairs of the Company.

63. The

Adelaide and Goodwood Tramway Act.—1881.

63. The remuneration of such auditor or auditors shall be fixed by the members of the Company at the time of his or their appointment, and shall be payable out of the funds of the Company.

Remuneration of auditors.

64. The Company shall also, once in every year at the least, cause to be prepared an account in abstract of the total amount realised by the said fees, tolls, charges, and other payments hereby authorised to be made, and also of all outgoings, debts, expenses, and liabilities incurred by or on behalf of the Company for the past year, under the several and distinct heads of receipts and expenditure, together with a statement of the balance of the account, duly audited, which statement shall be signed and certified by such auditor or auditors and by the Chairman of the Directors of the Company; and the Company shall cause to be transmitted one copy of such account, free of charge, to the Auditor-General of the said province on or before the thirty-first day of January in every year.

Abstract of account to be annually transmitted to Auditor-General.

65. In the event of the Company not forwarding such account at the time hereinbefore provided, they shall forfeit and pay a sum or penalty of Ten Shillings for every day during which the said account is withheld from the Auditor-General.

Penalty.

66. The said account shall, after due inspection by the Auditor-General, be filed by him in his office, and shall be open to the inspection of the public at all reasonable hours on payment of the sum of One Shilling.

Auditor-General to file abstract.

67. The Company shall not have power to raise by loan or mortgage any sum or sums of money exceeding one-third part of the capital of the Company, nor shall it be lawful for the Company, or any person or persons acting on its behalf, to raise any sum or sums of money whatsoever, whether on loan or mortgage, unless and until an amount equal to one-half of the capital of the Company shall have been fully paid up by the members thereof.

Restrictions as to mortgage.

68. Whereas, pursuant to the Standing Orders of the Legislative Council of this province, a sum of Two Hundred and Sixty-two Pounds and Ten Shillings, being one-twentieth of the amount of the estimate in respect of the tramway authorised by this Act, has been deposited in the Treasury of the said province: Be it Enacted that the said sum of Two Hundred and Sixty-two Pounds and Ten Shillings so deposited as aforesaid, in respect of the application for this Act, shall not be paid or transferred to or on the application of the person or persons depositing the same, or their successors or representatives, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the tramway hereby authorised to be made, either open the said tramway for the public conveyance of passengers or prove to the satisfaction of the Commissioner of Public Works that the Company have paid up one-half of the amount of the capital of the Company as fixed by

Deposit to be impounded as security for completion of line.

Adelaide and Goodwood Tramway Act.—1881.

by the memorandum of association thereof, and have expended for the purposes of this Act a sum equal in amount to such one-half of the said capital; and if the said period shall expire before the Company shall either have opened the tramway for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Commissioner of Public Works, the said sum of money deposited, as aforesaid, shall be applied in the manner hereinafter specified, and the certificate of the said Commissioner shall be sufficient evidence of the fact so certified: Provided that if the aforesaid conditions for repayment of the said sum of Two Hundred and Sixty-two Pounds and Ten Shillings shall be complied with such sum shall thereupon be repaid by the Treasurer to the said Company.

Application of deposit
or penalty in com-
pensation to parties
injured.

69. The said sum of money deposited as aforesaid shall be applicable, and, after due notice in the *Government Gazette*, shall be applied towards compensating any person whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said tramway or any portion thereof; or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation or inadequate compensation shall have been paid; and also in compensating all street authorities for the expenses incurred by them in taking up the tramway or materials connected therewith, placed by the Company in or on any road vested in or maintainable by such street authorities respectively, and in making good all damages caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction of such compensation as aforesaid, in such manner and in such proportions as to the Supreme Court or any Judge thereof may seem fit; and if no such compensation shall be payable, or if a portion of such sum shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money or such portion thereof as may not be required as aforesaid shall be forfeited to Her Majesty, and accordingly be paid or transferred to and form part of the revenue of the province in such manner as the said Court or Judge thinks fit to order on application of the Attorney-General, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

Tramways to be
completed.

70. If the tramway authorised by this Act shall not be completed within the period limited by this Act, then, on the expiration of such period, the power by this Act granted to the Company for making and completing the said tramway, or otherwise in relation thereto, shall cease to be exercised.

71. It

Adelaide and Goodwood Tramway Act,—1881.

71. It shall not be lawful for the Company to employ any part of the capital raised by means of calls or of any power of borrowing for the purpose of paying any sum or sums of money as interest or dividends upon such calls.

No interest on calls to be paid out of capital.

72. Nothing herein contained shall be deemed or construed to exempt the tramway by this Act authorised to be made from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future Session of Parliament, or from any future revision and alteration under the authority of Parliament, of the maximum rates of fares and charges authorised by this Act.

Tramway not to be exempt from general Act.

73. So much of the Adelaide and Hindmarsh Tramways Act, 1877, as authorises the Adelaide and Hindmarsh Tramway Company, Limited, to make, form, lay down, construct, and work any tramway along any street or part of a street along which the Company is hereby authorised to construct any line or lines of tramway, or so near thereto as to interfere with the working of all or any of the lines of tramway hereby authorised, is hereby repealed.

Repeal.

74. At any time after the expiration of fourteen years from the passing of this Act, it shall be lawful for Her Majesty's Government, in the name and on behalf of Her Majesty, to purchase the said tramway and the whole undertaking on giving to the Company six calendar months' notice in writing of such intention, on payment to the Company of an amount to be ascertained as follows, that is to say—Two arbitrators shall be appointed by Her Majesty's Government, two arbitrators by the Company, and all matters relating to such purchase shall be submitted to the decision of such arbitrators, and in all other respects such arbitration shall be conducted in accordance with, and under and subject to, the "Railways Clauses Consolidation Act," No. 7 of 1847: Provided that Her Majesty's Government shall not be compelled to abide by the event of the award, if the said Government shall give to the Company one month's notice in writing to that effect, and thereupon the Company shall be at liberty to carry on and work the said tramway: And provided also that the said Government shall pay the cost of the reference and award, and all costs and charges incidental thereto.

Government may purchase tramways

Proviso.

75. In the event of a sale of the undertaking being made to the said Government under the provisions of this Act, the said Government shall be subject to the provisions of this Act with respect to the construction, maintenance, use, and working of the tramway hereby authorised, and the conveyance and regulation of the traffic thereon, and shall be bound to perform and observe all the obligations and conditions by this Act imposed on the Company with respect to the several matters above-mentioned in the same manner and to the same extent and effect as if the said Government had been authorised by this Act to construct such tramway, and had been named in this Act instead of the Company.

Government to be subject to the provisions of the special Act if they acquire tramways.

76. If

Adelaide and Goodwood Tramway Act.—1881.

Power of Government
to lease tramways.

76. If the said Government purchase the undertaking, as aforesaid, they may lease from time to time to any person or body the right of use of the tramway so acquired by the said Government, and of demanding and taking in respect thereof the tolls and charges authorised by this Act: or they may leave the said tramway so acquired by them open to be used by the public, and may demand and take the tolls and charges authorised by this Act, or they may place and run carriages thereon, and demand and take tolls and charges in respect of the use of such carriages not exceeding the tolls and charges authorised by this Act.

Act not to affect Her
Majesty.

77. Nothing in this Act contained shall affect any right, title, or interest of Her Majesty, Her heirs or successors.

Government not
bound to compensate.

78. Nothing in this Act contained shall be construed to give the Company any claim to compensation in the event of Her Majesty's Government being at any time hereafter authorised to construct any line or lines of railway or tramway, the construction of which may, or may be supposed to, injuriously affect the undertaking hereby authorised.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to enable the Trustees of the piece or parcel of land and hereditaments, situate in Rundle-street, in the City of Adelaide, and known as the Adelaide Jewish Synagogue property, by the direction of the members for the time being of the Adelaide Hebrew Congregation, to sell, mortgage, or lease the said piece or parcel of land and hereditaments, and to make provision for the disposal of the proceeds thereof, and to extend the trusts upon which the said piece or parcel of land and hereditaments are held.

[*Assented to, November 18th, 1881.*]

WHEREAS by a certain indenture bearing date the eleventh day of December, one thousand eight hundred and forty-eight, made between George Morphett, of Adelaide, in the Province of South Australia, Esquire, of the one part, and Burnett Nathan, of Adelaide aforesaid, merchant, Morris Marks, and Louis Joseph, of Adelaide aforesaid, drapers, and Samuel Hart, of Adelaide aforesaid, draper, of the other part, and registered in the General Registry Office of the said province, Number 419, Book XIII, for the considerations therein mentioned—All that piece or parcel of land situate on the north side of Rundle-street, in Adelaide aforesaid, being portion of all that one acre section of land Numbered 37 in the Porvincial Survey, marked with the letter A, and containing in width from east to west as well as on the south side fronting Rundle-street aforesaid, as on the north side next other portion of the said

A acre

Adelaide Synagogue Act.—1881.

acre, severally ninety feet, and running in depth eastwards as well as on the west side next the acre section Numbered 38 in the same survey, as on the east side next the private road hereinafter described, severally one hundred and five feet be the said several dimensions, a little more or less, as the said piece of land with the boundaries and admeasurements thereof are delineated in the plan drawn in the margin of the now reciting presents and therein colored green: And also a right-of-way for them the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, their heirs and assigns, owners or occupiers for the time being of the piece or parcel of land hereinbefore described, and their tenants, servants, and friends, either alone or in company with any other person or persons, on foot or on horseback, or with horses, cattle, carts, and carriages, loaded or unloaded, into, through, over, and along all that piece of land of the width of thirty-two feet lying to the east of the piece or parcel of land thereinbefore in the now reciting presents described, and running from Rundle-street aforesaid, through the whole length of the said section as far as section Numbered 26 in the same survey as the said road is delineated in the said plan and therein colored red, together with all houses, outhouses, ways, fences, rights, members, and appurtenants to the said hereditaments and premises belonging or appertaining, and all the estate, right, title, interest, claim, and demand whatsoever, both at law and in equity, of him the said George Morphett therein and there'o, were bargained, sold, and released unto and to the use of the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, and their heirs and assigns for ever, as joint tenants: And whereas by an indenture of mortgage dated the tenth day of January, one thousand eight hundred and fifty-one, the said piece or parcel of land and hereditaments were conveyed by the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart unto and to the use of one Peter Belches, his heirs and assigns, for securing the repayment of the sum of Three Hundred Pounds and interest thereon, at the times and in manner therein mentioned: And whereas by a deed poll or declaration of trust, dated the fourteenth day of February, one thousand eight hundred and fifty-four, under the hands of the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart, after reciting the said recited indenture of the eleventh day of December, one thousand eight hundred and forty-eight, and that the said piece or parcel of land and hereditaments were then vested in the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart, subject to the said recited indenture of mortgage; and that the said piece or parcel of land and hereditaments had been bought, and a synagogue had been erected, partly out of the moneys subscribed by different persons professing the Jewish faith, and partly with the sum of Three Hundred Pounds so borrowed on mortgage as aforesaid, and that the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart were desirous of making such declaration of trust as was therein-after contained: It was made known and witnessed that the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart did thereby severally declare that the said piece or parcel of land and hereditaments

Adelaide Synagogue Act.—1881.

hereditaments were purchased, and the said synagogue was erected out of moneys subscribed for the purpose by persons holding the views thereafter mentioned, and with such sum of Three Hundred Pounds so borrowed as aforesaid; and that the same hereditaments, subject to the said mortgage, were held upon trust to permit and suffer the said synagogue to be used as a place of worship of Almighty God by the community of Jews, for the time being resident in South Australia, who believed in the doctrines and practised the rites, forms, and ceremonies held, observed, and practised by the body of Jews known as "the German and Polish Jews in England," as then presided over by the Chief Rabbi of the Great Synagogue, in England: And upon trust to permit or suffer to be erected a dwelling-house for the minister for the time being of the congregation assembling in such place of worship, holding such views and observing such rites, forms, and ceremonies as aforesaid; and also a schoolhouse for the use of the said congregation: And it was by the now reciting deed poll declared that the said piece or parcel of land and hereditaments, notwithstanding anything therein contained to the contrary, should at all times, so long as there should be any money due on the thereinbefore recited mortgage, be subject and liable to such mortgage money, and be resorted to in exoneration of the said trustees for payment of such mortgage money: And in the now reciting deed poll is contained a proviso that whenever the number of trustees, either the present or any future trustees appointed under the now reciting provision, should be reduced by death below three, it should be lawful for the president for the time being of the said congregation to convene a general meeting of the congregation for the appointment of new trustees in the place of the deceased trustees, and at such meeting such new trustees should be appointed by a majority of votes, and the president should have a casting vote; and upon every such appointment, the trust property should be so vested as that the new trustees should hold the same jointly with the surviving trustees, or solely, as the case might require: And whereas by a certain indenture, bearing date the first day of July, one thousand eight hundred and sixty-eight, made between the said Morris Marks and Louis Joseph, of the first part, and Aaron Edwin Cohen, of Adelaide aforesaid, merchant, Israel Simmons, of Adelaide aforesaid, draper, Isaac Solomon, of Adelaide aforesaid, auctioneer, and Moss Judah Solomon, of Adelaide aforesaid, merchant, of the second part, and registered in the General Registry Office of the said province, Number 250, Book 236, after reciting the said recited indenture of conveyance of the eleventh day of December, one thousand eight hundred and forty-eight, and the said recited deed-poll or declaration of trust of the fourteenth day of February, one thousand eight hundred and fifty-four, and after reciting that, by an indenture dated the ninth day of January, one thousand eight hundred and fifty-six, the said piece or parcel of land and hereditaments were re-conveyed by the said Peter Belches unto and to the use of the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, their heirs and assigns for ever, freed and discharged from the said indenture of mortgage and from all moneys thereby secured.

secured: And after reciting that the said Burnett Nathan and Samuel Hart had departed this life, and the said Morris Marks and Louis Joseph had ceased to reside in the said Province of South Australia, and that at a general meeting of the said congregation, convened for the purpose of appointing new trustees, the said parties to the now reciting presents of the second part were duly appointed as trustees in the place of the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, and it had been agreed that the now reciting presents should be executed for the purpose of vesting the said piece or parcel of land and hereditaments in the said parties to the now reciting presents of the second part upon the before-mentioned trusts, it was witnessed that, for the considerations therein mentioned, the said piece or parcel of land and hereditaments, with the appurtenants thereto belonging, were granted, bargained, sold, and released by the said Morris Marks, and Louis Joseph, unto and to the use of the said Aaron Edwin Cohen, Israel Simmons, Isaac Solomon, and Moss Judah Solomon, and their heirs and assigns for ever, as joint tenants upon and for the trusts, intents, and purposes, and subject to the provisions expressed and declared in and by the said recited deed poll or declaration of trust of the fourteenth day of February, one thousand eight hundred and fifty-four: And whereas the said Aaron Edwin Cohen has departed this life, and whereas at a general meeting of the members for the time being of the Adelaide Hebrew Congregation, held on the twelfth day of April, one thousand eight hundred and eighty-one, Solomon Saunders, of Adelaide aforesaid, money agent, was appointed as a trustee of the said piece or parcel of land and hereditaments in the place of the said Aaron Edwin Cohen, deceased: And whereas it is desirable and expedient, and it would be for the benefit and advantage of the Jewish community in the said province, that the trustees for the time being of the said piece or parcel of land and hereditaments should be invested with powers (subject to the direction of the members for the time being of the Adelaide Hebrew Congregation) to sell, mortgage, and lease the said piece or parcel of land and hereditaments, and that the proceeds to arise therefrom should be applied in the manner hereinafter by this Act provided: And whereas the members for the time being of the Adelaide Hebrew Congregation have, by certain resolutions passed at a general meeting called for the purpose, expressed their desire that such powers as are hereinafter given to or conferred upon the said trustees should be so given and conferred: And whereas it is desirable that the said piece or parcel of land and hereditaments should be properly vested in the said Israel Simmons, Isaac Solomon, Moss Judah Solomon, and Solomon Saunders, as such trustees as aforesaid, and that such provision should be made for the appointment of new trustees as is hereinafter contained: And whereas it is desirable and expedient that the furniture and effects hereinafter mentioned should be vested in such trustees as aforesaid upon the trusts hereinafter contained concerning the same: Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. The

Adelaide Synagogue Act.—1881.

1. This Act may be cited for all purposes as the “Adelaide Synagogue Act, 1881.” Short title of Act.

2. Whenever the expression “the said trustees” occurs, or is used in this Act, such expression shall be construed and taken to mean and include, any trustees of the said premises, whether original or substituted. And whenever the expression “the members for the time being of the Adelaide Hebrew Congregation” occurs, or is used in this Act, such expression shall be construed and taken to mean and include all persons who shall have attained the age of twenty-one years, who for the time being shall hold seats, and shall for a period of upwards of twelve calendar months have held seats in the synagogue now or hereafter to be erected on the said piece or parcel of land and hereditaments, or any other lands and hereditaments which may be purchased, pursuant to the provisions of this Act. Interpretation.

3. That the said Israel Simmons, Isaac Solomon, Moss Judah Solomon, and Solomon Saunders, shall henceforth be the trustees of the said piece or parcel of land and hereditaments hereinbefore mentioned and described, and of all buildings, erections, and appurtenances thereon and thereunto appertaining; and the said piece or parcel of land and premises shall henceforth be vested in the said Israel Simmons, Isaac Solomon, Moss Judah Solomon, and Solomon Saunders, their heirs and assigns, for an absolute estate of inheritance in fee simple upon the trusts, and to and for the ends, intents, and purposes, and with, under, and subject to the powers and provisoes declared and contained in the said recited deed poll or declaration of trust of the fourteenth day of February, one thousand eight hundred and fifty-four, except so far as the same may be altered or varied by this Act, and upon the trusts and to and for the ends, intends, and purposes, and with, under, and subject to the powers and provisoes in this Act expressed and contained. Trustees.

4. That it shall be lawful for the said trustees, and they are hereby authorised and empowered, by and with the direction of the members for the time being of the Adelaide Hebrew Congregation, from time to time to make sale, dispose of, convey, transfer, and assure the said piece or parcel of land and hereditaments, or any part or parts thereof, with the appurtenances thereunto belonging, either together or in parcels, and either by public auction or private contract, unto any person or persons who shall be willing to become the purchaser or purchasers thereof, for such sum or sums of money as the majority of the members of the Adelaide Hebrew Congregation shall think reasonable, and to give time (either with or without security) for the payment of such purchase-money, or any part thereof, and upon payment to them of the purchase-money for which the said piece or parcel of land and hereditaments, or any part or parts thereof, shall be so sold to convey the same messuages, lands, tenements, and hereditaments, so sold and disposed of as aforesaid, unto and to the use of the purchaser or purchasers thereof, his, her, or Power to sell.

Adelaide Synagogue Act.—1881.

or their heirs and assigns, or as he, she, or they shall direct, freed and discharged from the trusts affecting the same.

Application of
proceeds of sale.

5. That the moneys to arise from the sale of the said premises under the power in that behalf hereinbefore given, shall be received by the said trustees and applied by them for all or such of the following purposes as the members for the time being of the Adelaide Hebrew Congregation shall direct—

The purchase of such piece or parcel or pieces or parcels of land as the members for the time being of the Adelaide Hebrew Congregation shall direct, and the erection thereon of a synagogue, in accordance with such plans as the members for the time being of the Adelaide Hebrew Congregation shall direct, and the maintaining of such synagogue in good repair, such synagogue to be used as a place of worship of Almighty God by the community of Jews for the time being resident in the said province, who believe in the doctrines and practice the rites, forms, and ceremonies held, observed, and practised by the body of Jews known as “The German and Polish Jews in England.”

The erection upon such piece or parcel or pieces or parcels of land so to be purchased as aforesaid, in accordance with such plans as the members for the time being of the Adelaide Hebrew Congregation shall direct, of a dwelling-house for the minister for the time being of the congregation assembling in such place of worship holding such views and observing such rites, forms, and ceremonies as aforesaid, and the maintaining of such dwelling-house in good repair.

The erection upon such piece or parcel or pieces or parcels of land so to be purchased as aforesaid, in accordance with such plans as the members for the time being of the Adelaide Hebrew Congregation shall direct, of a schoolhouse for the use of such congregation, and the maintaining of such schoolhouse in good repair.

Provided, nevertheless, that it shall be lawful for the said trustees, until the whole of the moneys to arise from a sale under the power herein contained shall have been applied in manner hereinbefore provided, to invest the same, or so much thereof as shall for the time being remain unapplied, in such manner as the members for the time being of the Adelaide Hebrew Congregation shall from time to time direct; and the income derived from such unapplied moneys and the investments thereof shall be expended in such manner as such members shall from time to time direct, for the promotion of the worship of God by the community of Jews for the time being resident in the said province holding such views and observing such rites, forms, and ceremonies as aforesaid.

Power to mortgage.

6. That it shall be lawful for the said trustees, and they are hereby authorised and empowered, by and with the direction of the members for the time being of the Adelaide Hebrew Congregation, to raise by mortgage of the said piece or parcel of land and hereditaments

Adelaide Synagogue Act. — 1891.

ditaments, or any part or parts thereof, with the appurtenances thereunto belonging, such sum or sums of money as the members for the time being of the Adelaide Hebrew Congregation shall from time to time direct, for such purposes, and to be applied in such manner as is hereinafter in that behalf provided: And for effectuating any such mortgage, it shall be lawful for the said trustees, by any deed or deeds, to charge the said premises, or any part or parts thereof, with any such sum or sums as aforesaid, with interest for the same, and to convey, or otherwise assure the premises so to be charged, to the mortgagee or mortgagees, or any other person or persons, subject to redemption upon payment of the mortgage-money and interest at a time or times to be therein named, and with such powers of sale or other powers as it may be thought expedient to insert in any such mortgage or mortgages; and, generally, for such purposes as aforesaid, to execute and do all such assurances and things as the said trustees shall think necessary: Provided, nevertheless, that the power of raising money upon mortgage hereinbefore contained shall only be exercised by the said trustees, for all or such of the purposes hereinbefore provided, in respect of the moneys to arise from a sale of the said piece or parcel of land and hereditaments as the members for the time being of the Adelaide Hebrew Congregation shall direct, or for the purposes of paying off or discharging, either wholly or partially, any mortgage, or other charge or incumbrance, for the time being affecting the said piece or parcel of land and hereditaments, and the moneys raised for the last-mentioned purposes shall and may be applied by the said trustees accordingly; and no mortgagee advancing upon any mortgage purporting to be made under this power shall be bound to see that such money is wanted, or that no more is raised than is wanted, for the purposes aforesaid.

7. That it shall be lawful for the said trustees, and they are hereby authorised and empowered, by and with the direction of the members for the time being of the Adelaide Hebrew Congregation, to demise or lease the said piece or parcel of land and hereditaments, or any part or parts thereof, with the appurtenances thereunto belonging, for any term of years not exceeding forty years, to take effect in possession or within six calendar months after the date of the demise, so as there be reserved the best yearly rent or rents that can be reasonably gotten, without taking anything in the nature of a fine or premium, and so as there be contained in every such demise a condition of re-entry for non-payment within a reasonable time to be therein specified of the rent or rents thereby reserved, and so as the lessee or lessees do execute a counterpart thereof, and do thereby covenant for the due payment of the rent or rents thereby reserved: And the rents and profits to arise from the said trust estate leased under this power shall be received by the said trustees, and applied by them for all or such of the purposes hereinbefore provided in respect of the moneys to arise from a sale of the said premises as the members for the time being of the Adelaide Hebrew Congregation shall direct: Provided, nevertheless, that it shall be lawful for the said trustees, out of such rents and profits, to pay all interest which may accrue due in respect of

Power to lease

Adelaide Synagogue Act.—1881.

of any moneys raised by mortgage under the power in that behalf hereinbefore contained, and to lay out and expend such sum or sums as they shall think necessary in and about the insuring, repairing, rebuilding, upholding, and improving the messuage, lands, tenements, and hereditaments whence such rents and profits shall arise: And also to make any abatements or allowances to tenants on account of rent due or accruing due from such tenants for the occupation of the said trust estate, or any part or parts thereof, whenever it shall appear to the said trustees that such abatement or allowance will have the effect of retaining tenants and be beneficial to the said trust estate.

Power to accept
surrenders of leases
and re-let.

8. That it shall be lawful for the said trustees, with and by the direction of the members for the time being of the Adelaide Hebrew Congregation, to accept a surrender or surrenders of any lease or leases for the time being, and to relet the messuages, lands, and tenements, comprised in any such lease or leases.

Mode in which
directions to be given
by the members for
the time being of the
Adelaide Hebrew
Congregation for the
purposes of this Act.

9. The members for the time being of the Adelaide Hebrew Congregation shall be deemed to have directed any power to be exercised, or any act, matter, or thing to be done, under and pursuant to this Act, whenever a resolution has been passed, embodying such direction, by a majority of not less than three-fourths of such members as may be present in person or by proxy (such proxy in every case to be one of the members for the time being of the Adelaide Hebrew Congregation, and appointed in writing) at any general meeting of such members, of which notice, specifying the time and place of meeting, and the purpose for which the meeting is to be held, shall at least seven days before the holding of such meeting have been served upon or given to the members for the time being of the Adelaide Hebrew Congregation, either personally or by leaving the same, or by sending the same through the post in a letter, addressed to such members at their then or last-known place of abode or business, in the said province, and shall have been advertised twice in each of the two daily newspapers published at Adelaide, and such resolution has been confirmed by a majority of such members as may be present in person or by proxy (such proxy in every case to be one of the members for the time being of the Adelaide Hebrew Congregation, and appointed in writing) at a subsequent general meeting, of which a like notice shall have been given as is hereinbefore provided in the case of the meeting at which such resolution shall have been first passed, and held at an interval of not less than fourteen days, nor more than one calendar month, from the date at which such resolution was first passed. At any such meeting ten members shall form a quorum; every member shall be entitled to one vote. In the event of an equality of votes, the chairman of the meeting shall have a casting vote in addition to his vote as a member.

10. A statutory declaration by the president for the time being of the members of the Adelaide Hebrew Congregation, or the chairman

Adelaide Synagogue Act.—1881.

man who shall have presided at the meeting at which such resolution was confirmed, that any resolution set forth in such statutory declaration has been passed and confirmed by the members for the time being of the Adelaide Hebrew Congregation, pursuant to the tenth clause of this Act, shall be sufficient evidence that such resolution has been properly passed and confirmed at a meeting of such members, properly convened and held, pursuant to the tenth clause of this Act, and that the members for the time being of the Adelaide Hebrew Congregation have, pursuant to this Act, given the direction required by this Act, and embodied in such resolution.

11. That all lands and hereditaments purchased with any moneys arising from the sale or leasing of the said piece or parcel of land and hereditaments, or with any money raised under the power of raising money by mortgage in this Act contained, shall be conveyed, transferred, and assured to the said trustees, their heirs, and assigns, upon and for the same trusts, and to and for the same ends, intents, and purposes, and with, under, and subject to the same powers and provisos as are by this Act expressed and contained of and concerning the said piece or parcel of land and hereditaments hereinbefore described, and all the provisions herein contained and all the powers hereby given or conferred shall apply to and may be exercised in respect of the lands and hereditaments so purchased in the same manner in all respects as the same applied to and might be exercised in respect of the said piece or parcel of land and hereditaments hereinbefore described.

Trusts of this Act to apply to lands purchased in pursuance thereof.

12. The receipts, in writing, of the said trustees for any moneys payable to them by reason or in the exercise of any trusts or powers reposed or vested in them or him by this Act shall be sufficient discharges for the moneys therein expressed to be received, and shall effectually exonerate the persons paying such moneys from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Trustees' receipts to be discharges.

13. Notwithstanding anything in this Act to the contrary, it shall be lawful for the said trustees to reimburse themselves respectively, or pay and discharge, out of any moneys coming to their hands by the exercise of any of the powers conferred upon them by this Act, all expenses incurred by them in or about the execution of the trusts and powers declared or given by this Act, or any of them.

Reimbursement of Trustees.

14. Whenever and so often as any one or more of the said trustees, or any trustee appointed under the provisions of this Act, shall die, or resign his office of trustee, or refuse or become incapable to act in the trusts or powers in him reposed, or shall make a deed of assignment, or become insolvent, or shall go to reside out of the Australasian Colonies for a period of twelve months, it shall be lawful for the surviving or other continuing trustees or trustee, or for the last retiring trustee, or for the acting executors or administrators of the last surviving or continuing trustee, by instrument

Appointment of New Trustees.

Adelaide Synagogue Act.—1881.

ment in writing to appoint any person or persons whom the members for the time being of the Adelaide Hebrew Congregation shall direct to be appointed for the purpose to be a new trustee, or new trustees, in the place of the trustee or trustees so dying or resigning his or their office, or refusing or becoming incapable to act, or going to reside out of the Australasian Colonies as aforesaid; and so often as any new trustee or trustees shall be so appointed as aforesaid, the trust premises, which for the time being shall be vested in the surviving or continuing trustee or trustees, or the last retiring trustee, or the heirs, executors, or administrators of any last surviving or continuing trustee, shall, by virtue of such appointment, and without other assurance in the law become and be conveyed and transferred, so that the same shall thereupon become and be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees or trustee, as the case may require; and every new trustee to be appointed as aforesaid shall have the like powers, authorities, and discretions, and shall and may act in all respects as if he had been originally appointed a trustee by this Act.

Commencement of
Act.

15. This Act shall commence and take effect from and after the passing thereof.

In the name and on behalf of Her Majesty, I hereby assent to
this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to amalgamate the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, and for other purposes.

[Assented to, November 18th, 1881.]

WHEREAS by an Act of the Governor and the Legislative Council and House of Assembly of the Province of South Australia, passed in the thirty-fifth year of the reign of Her Majesty Queen Victoria, the Adelaide, Glenelg, and Suburban Railway Company, Limited, being a company incorporated under "The Companies Act, 1864," in the City of Adelaide, in the Province of South Australia, for the purposes, amongst others, for constructing a railway in and from King William-street, in the City of Adelaide, to the jetty in the Town of Glenelg, in the said province, with a capital of Twenty-two Thousand Pounds, divided into four thousand four hundred shares of Five Pounds each, were empowered to make, maintain, and work a railway seven miles one furlong in length, commencing in King William-street, in the City of Adelaide, at the place where Grenfell-street and Currie-street join it, and terminating at that end of Jetty Road, in the Town of Glenelg, which is next to the jetty there, with all proper stations, approaches, works, and conveniences connected therewith; and the said company were also empowered by their said Act to borrow on mortgage or bond such a sum not exceeding in the whole Twenty Thousand Pounds, as any general meeting of the company should authorise the borrowing of: And whereas, by a special resolution of the company, the capital of the said company was increased to Forty-four Thousand Pounds by the issue of four thousand four hundred

Glenelg Railway Act.—1881.

hundred new shares of Five Pounds each: And whereas the said company have, pursuant to the powers conferred by "The Adelaide, Glenelg, and Suburban Railway Act, 1871," borrowed on bonds the sum of Twenty Thousand Pounds carrying interest at the rate of Six Pounds per centum per annum: And whereas by a special resolution of the said company the capital of the said company was varied by dividing the same into forty-four thousand shares of One Pound each: And whereas by a special resolution of the said company the capital of the said company was further increased by the issue of five thousand new shares of One Pound each: And whereas by an Act of the Governor and Legislative Council and House of Assembly of the Province of South Australia, passed in the forty-first and forty-second year of the reign of Her Majesty Queen Victoria, the Holdfast Bay Railway Company, Limited, being a company incorporated under "The Companies Act, 1864," in the City of Adelaide, in the Province of South Australia, for the purposes, among others, of constructing a railway for steam-power into, from, and between a point to the north of the Sheep and Cattle Market, in the City of Adelaide, at the Government line of railway, near the second signal station west from the Adelaide Railway Station, to the jetty at Glenelg, in the said province, and a railway or tramway for steam-power or horse-traction in, to, from, and between the north-eastern boundary of Glenelg Ward, in the Town of Glenelg, at the junction of the Brighton and Bay Roads, to the Township of Brighton, to a point at or near the Thatched House Tavern, with a capital of Thirty Thousand Pounds, divided into ten thousand shares of Three Pounds each, and having power to increase such capital, were empowered to lay down, construct, maintain, and work—

Firstly—A railway (No. 1) six miles sixty-five chains and thirty links, or thereabouts, in length, commencing at a point to the north of the Sheep and Cattle Market, in the City of Adelaide, at the Government lines of railway, near the second signal station west from the Adelaide Railway Station; thence running in a south-westerly direction across park lands; then crossing a road leading to River Torrens; then through the olive plantation at the south of the Gaol, crossing the road leading to the Corporation slaughterhouse, crossing portion of park lands road leading to Gaol olive plantation, to a point on the Port Road crossing same with the level unaltered at a point below the intersection of the Gaol Road with the Port Road; thence crossing the West Park Lands to a public road known as the Mile-End Road to the junction of a road known as Dodd's Road with such last-named public road; thence through sections 2 and 3, crossing a district road to Hilton, and through sections 4 and 5; thence crossing the Hilton Road; thence through section 50, crossing a district road onwards through other portion of section 50; thence through sections 2031, 52, 93, 2033, and 88; thence through building allotments in the Township of Hayhurst, crossing Long-street, and through other building
allotments

Glenelg Railway Act.—1881.

allotments in the said township; thence crossing a district road known as Plympton Road, through sections 108 and 104, crossing a private road on the level; then through section 136, crossing Morphett Road in a westerly direction onwards through section 152, crossing a private road leading to Sir John Morphett's house; then through same section, and onwards through section 183; then crossing Allison-street, and through town allotments in the Town of Glenelg, being part of section 184, to the junction of Brighton and Bay Roads; thence along the Bay Road, crossing a portion of the Corporation reserve, and onwards to the junction of the Bay Road and Althorpe-place; thence along Althorpe and Victoria-places to the Jetty Road, therefrom to the jetty:

Secondly—A railway or tramway (No. 2) for steam-power or horse-traction, two miles and seventy-seven chains, or thereabouts, in length, commencing at a point at the north-eastern boundary of Glenelg Ward at the junction of the Brighton and Bay Roads; thence in a southerly direction along the Brighton Road, crossing the line of rails of the Adelaide, Glenelg, and Suburban Railway Company, Limited, on the level at the junction of such railway with the said Brighton Road; thence along the Brighton Road, crossing the main road leading from Tapley's Hill to Port Adelaide, therefrom direct to the Thatched House Tavern, in Brighton aforesaid, along the said Brighton Road, with all proper rails, works, plates, sidings, junctions, stations, approaches, and conveniences connected therewith.

And the said Holdfast Bay Railway Company, Limited, were also empowered by their said Act to borrow on mortgage or bond any sum of money not exceeding in the whole Twenty-five Thousand Pounds, and which any general meeting of the company should authorise the borrowing of: And whereas, by a resolution of the Holdfast Bay Railway Company, Limited, the capital of the company was increased to Forty-five Thousand Pounds by the issue of five thousand new shares of Three Pounds each: And whereas the Holdfast Bay Railway Company, Limited, have, pursuant to the powers conferred on them by their said Act, borrowed on mortgages the sum of Twenty Thousand Pounds carrying interest, some at the rate of Eight Pounds per centum per annum, and some at the rate of Seven Pounds Ten Shillings per centum per annum: And whereas, by a special resolution of the said company, the capital of the said company was varied by dividing the same into forty-five thousand shares of One Pound each: And whereas it would be of public and local advantage, and also to the advantage of the respective companies, that the said companies should be amalgamated into one united company: And whereas it is expedient that the united company should be empowered to prolong, extend, alter, or vary the several railways authorised to be constructed by the "Holdfast Bay Railway Act, 1878," and "The Adelaide, Glenelg, and Suburban Railway Act, 1871," as shown and delineated in the plan, together with

Glenelg Railway Act.—1881.

with a book of reference, deposited in the office of the Surveyor-General of the Province of South Australia on the eighth day of April, one thousand eight hundred and eighty-one, and to enter upon, purchase, take, acquire, and use, subject to the provisions of this Act, such of the lands delineated and described in the said deposited plan as the united company may require for such purpose: And whereas it is also expedient to confer and impose upon the united company such of the powers, privileges, and advantages contained in the said recited Acts as may be applicable—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

Short title of Act.

1. This Act may be cited for all purposes as the “Glenelg Railway Act, 1881.”

Interpretation.

2. In this Act, unless the contrary is expressed or is to be implied from the context—

The “united company” means the “Glenelg Railway Company, Limited,” as constituted by and incorporated by this Act :

The expression “the Commissioner of Public Works” means as well the Commissioner of Public Works as also the Commissioner of Railways for the Province of South Australia for the time being :

The word “street” shall mean any public street, road, footpath, or place :

The expression “the street authority” shall mean the persons having the control or management of the street in respect of which such expression shall be used, if the same shall be used in respect of any particular street, but if such expression shall not be used in respect of any particular street it shall mean any persons having the control or management of any street.

And in interpreting this Act, and also in interpreting therewith the “Holdfast Bay Railway Act, 1878,” and “The Adelaide, Glenelg, and Suburban Railway Act, 1871,” and the several Acts incorporated herewith and therewith, so far as the same respectively apply to this Act, the following words and expressions shall have or include the several meanings hereby assigned to or included in them, unless there be something in the subject or context repugnant to such construction :

The expression “the undertaking” shall mean the making and maintaining of the several lines of railway and tramway and other works connected therewith respectively, and all other works, by the “Holdfast Bay Railway Act, 1878,” “The Adelaide, Glenelg, and Suburban Railway Act, 1871,” and this

Glenelg Railway Act.—1881.

this Act, or any of them, respectively, authorised to be executed:

The expression “the company” or “the said company” shall mean the united company as incorporated by this Act:

The word “shareholder” shall mean a holder of shares in the said company, and, in referring to any such shareholder, expressions properly applicable to a person shall be held to apply also to a corporation:

The words “directors” and “secretary” shall respectively mean the directors and secretary of the united company:

The word “lease” shall include an agreement for a lease; and the word “occupier” shall include any person having a lease or an agreement for a lease:

The expression “the railway” shall include the railways and tramways, and other the works which, by virtue of “The Holdfast Bay Railway Act, 1878,” and “The Adelaide, Glenelg, and Suburban Railway Act, 1871,” and this Act, or any of them respectively, have been or are authorised to be constructed or executed:

The word “tolls” shall mean any rate, or charge, or sum which is or may be payable for the conveyance of any passengers and goods whatsoever upon the railway, or for the storage of any goods upon the premises of the united company or elsewhere:

The word “railway” shall include tramway:

In the 9th and 10th sections of “The Railways Clauses Consolidation Act,” the words “Surveyor-General” shall include in their meaning “Deputy Surveyor-General” and “Acting Surveyor-General.”

3. The Adelaide, Glenelg, and Suburban Railway Company, Limited, is hereby dissolved.

Dissolution of Adelaide, Glenelg, and Suburban Railway Company, Limited.

4. The Holdfast Bay Railway Company, Limited, is hereby dissolved.

Dissolution of Holdfast Bay Railway Company, Limited.

5. The holders, at the time of the passing of this Act, of shares in the Adelaide, Glenelg, and Suburban Railway Company, Limited, and the Holdfast Bay Railway Company, Limited, respectively, and all persons who shall hereafter subscribe to the undertaking, or become shareholders in the united company, and their several and respective executors, administrators, and successors shall, whilst they continue shareholders, be incorporated into a company by the name of the “Glenelg Railway Company, Limited,” with perpetual succession and a common seal, and by that name shall have power to hold and also to take and purchase lands, and shall and may sue and

Incorporation of united company.

Glenelg Railway Act.—1881.

and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all Courts and places whatsoever: And the said company shall, for all purposes, be deemed to be a company registered, limited, and incorporated as a company limited by shares under the provisions of "The Companies Act, 1864;" and the memorandum of association of the Glenelg Railway Company, Limited, and the articles of association of the Glenelg Railway Company, Limited, set out in the Schedule hereto marked A, shall regulate and govern the constitution and proceedings of the said company in the same manner as if the same had been duly executed by seven or nine shareholders thereof and filed with the Registrar of Companies under the provisions of the said "The Companies Act, 1864," and the same may be from time to time altered or varied to the extent and in the manner in which the memorandum and articles of association of companies limited by shares and duly incorporated under the said Act may be altered and varied, and generally the said company shall be subject to all the provisions of the said "The Companies Act, 1864," and any Acts amending the same, as fully, to all intents and purposes, as if such company had been duly registered under the provisions of the said Act as a company limited by shares, and as if all the provisions of such Act had been fully complied with, and the said company had filed memorandum and articles of association as contained in the said Schedule A, and as if the Registrar of Companies had duly published a notification in the *Government Gazette* that the said company had been duly incorporated in terms of clause 17 of the said "The Companies Act, 1864."

Amalgamation of
undertaking of the
dissolved companies.

6. The undertaking and the railway, as respectively hereinbefore defined, and all the estate and interest of the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, in all lands which have been, or may hereafter be taken, purchased, or acquired by such company respectively, or are or may be otherwise vested in them respectively, and all the locomotives and fixed steam-engines, and rolling-stock, and all other property, moneys, credits, chattels, and effects, which shall belong to or be vested in such companies respectively, shall, subject to the provisions of this Act and to any encumbrances affecting the same respectively, be vested and held, possessed, and enjoyed by the united company; and all powers, authorities, privileges, exemptions, rights of action, suits, and all other the rights and interest of the said companies respectively, shall, subject to the provisions of this Act, be held, used, exercised, and enjoyed by the united company in the same manner and to the same extent as the same respectively, at the passing of this Act are, or if this Act were not passed, might be held, used, exercised, and enjoyed by the said companies respectively: And, except as is herein otherwise provided, all debts and money due from or to the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, or any person or persons on their behalf respectively, shall be payable and paid by or to the united company.

Saving debts and
claims of dissolved
companies.

7. All

Glenelg Railway Act.—1881.

7. All causes and rights of action or suit accrued before the passing of this Act, and then in any manner enforceable by, for, or against the Holdfast Bay Railway Company, Limited, or the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, shall be and remain as good, valid, and effectual for or against the united company as they would or might have been for or against the Holdfast Bay Railway Company, Limited, or the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively affected thereby if this Act had not been passed.

Causes and rights of actions reserved.

8. All contracts, agreements, and engagements existing between the Holdfast Bay Railway Company, Limited, and the Commissioner of Public Works and Commissioner of Railways, for the making of openings and crossings in the lines of railway of Her Majesty's railways at the junction of the line of railway of the Holdfast Bay Railway Company, Limited, with Her Majesty's railways, and for the passage of the said company's engines, trains, trucks, vans, or other carriages over and along all or any of the lines of railway of Her Majesty's Government, and for the management, maintenance, and repair of such railways, and the mode of conducting the traffic, and the charges to be paid to Her Majesty's Government under every such contract and engagement, and for any other purposes or objects whatsoever: And all contracts and engagements existing between the Holdfast Bay Railway Company, Limited, and any company or companies, corporation or corporations, firm or firms, person or persons, whatsoever or whomsoever, for any purpose or object whatsoever; and all contracts and engagements existing between the Adelaide, Glenelg, and Suburban Railway Company, Limited, and any company or companies, corporation or corporations, firm or firms, person or persons, whatsoever or whomsoever, for any purpose or object whatsoever, shall respectively be and are hereby ratified and confirmed: And shall respectively be and are hereby transferred to, and shall respectively be enforced and enforceable by and against the united company in the same manner as the same would have been enforceable by and against the Holdfast Bay Railway Company, Limited, or the Adelaide, Glenelg, and Suburban Railway Company, Limited, if this Act had not been passed.

Contracts to continue in force.

9. Whereas the said Holdfast Bay Railway Company, Limited, and the said Adelaide, Glenelg, and Suburban Railway Company, Limited, have, since the twenty-fourth day of December, one thousand eight hundred and eighty, been carrying on the business of the said companies in co-partnership, on the basis of an equal contribution towards the expenses and an equal division of the profits of such railways, and it is desirable to validate and give effect to such agreement—Be it therefore Enacted, and it is hereby declared that such agreement shall, as between the shareholders of the respective companies and all other persons interested, be valid and effectual to all intents and purposes whatever.

Validating existing agreement for carrying on railways prior to passing of Act.

10. Nothing in this Act contained shall cause the abatement, discontinuance,

Actions not to abate.

Glenelg Railway Act.—1881.

continuance, or determination of, or in anywise prejudicially affect any action, suit, or other proceeding at law or in equity commenced by or against the Holdfast Bay Railway Company, Limited, or the Adelaide, Glenelg, and Suburban Railway Company, Limited, either solely or jointly with any other company, or with any person before the passing of this Act and then pending, but the same may be continued, prosecuted, or enforced by or against the united company, either solely or, as the case may require, jointly with such other company or with such person; and all persons committing offences against any of the provisions of the "Holdfast Bay Railway Act, 1878," or "The Adelaide, Glenelg, and Suburban Railway Act, 1871," respectively, before the passing of this Act, may be prosecuted, and all penalties incurred by reason of such offences may be sued for and recovered in like manner in all respects as if this Act had not been passed.

Resolutions of dissolved companies to remain in force.

11. All resolutions of any general meeting or Board of Directors of the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, or of any duly constituted and authorised committee thereof respectively, so far as the same are applicable and remain in force, shall, notwithstanding the dissolution of the said companies respectively, continue to be operative, and shall apply to the united company and to the directors, officers, and servants of the united company until duly revoked or altered by the united company

Books, &c., to be evidence.

12. All books and documents which would have been evidence in respect of any matter for or against the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, shall be admitted as evidence in respect of the same or the like matter for or against the united company.

Payment of calls.

13. All calls made by the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, and not paid at the time of the passing of this Act, shall be payable to and may be enforced by and in the name of the united company.

Register books and certificates relating to dissolved companies to subsist until replaced.

14. All registers of shares, mortgages, and bonds of the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, and all shareholders' address-books respectively, which are valid and subsisting at the time of the passing of this Act, shall continue to be valid and subsisting and shall have the same operation and effect as if such companies had not been dissolved, unless and until new or altered register and other books are substituted in their stead, and all transfers, sales, or dispositions of shares made before the dissolution, and not then completed, shall have the same operation and effect as if made after dissolution.

15. The

Glenelg Railway Act.—1881.

15. The united company is hereby authorised and empowered, subject to the provisions of this Act and of the Ordinances and Acts incorporated herewith, to make, maintain, and work within the limits of deviation shown on the said plans and sections thereof deposited in the office of the Surveyor-General, in addition to and in connection with the said railways and tramways authorised to be constructed, maintained, and worked by the “Holdfast Bay Railway Act, 1878,” and “The Adelaide, Glenelg, and Suburban Railway Act, 1871,” respectively, the railways hereafter described, with all proper stations, approaches, works, sidings, junctions, and conveniences connected therewith; and may enter upon, take, and use such of the lands delineated in the said plans and described in the books of reference as may be required for those purposes, whether the same do or do not form part of the public or Government reserves or streets. The additional or extended railway hereinbefore referred to and authorised by this Act is as follows—

Power to extend
railway.

Firstly—A railway for steam-power, ten chains twenty-one links in length, running at a radius of 6·50 links in, to, from, and between a point or terminus on the centre of the Brighton Road, distant six chains north from the northern side of the Jetty Road and a point or terminus on the centre of the Jetty Road, distant six chains from the western side of the Brighton Road:

Secondly—A railway or siding, ten chains in length, joined to the line of railway of the Adelaide, Glenelg, and Suburban Railway Company, Limited, at a point or terminus in the centre of the Jetty Road at its intersection with the western side of the Brighton Road; then running in a westerly direction along the Jetty Road to a point or terminus on the last-mentioned line of railway, at the intersection of the Jetty Road with the eastern side of Rodolph-terrace.

16. The additional railway authorised to be constructed by this Act and the “Holdfast Bay Railway Act, 1878,” shall be completed within six calendar months from the passing of this Act, and after which time each and all of the powers by this Act granted to the united company for executing the additional railway, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the railway as shall then be completed: And it shall then be lawful for the respective street authorities to resume the sole and absolute possession, care, control, and management of the whole or any part of the public roads, streets, and thoroughfares which have been taken by the united company under this Act, but on which the works of the railway have not been completed.

Time for completion
of works.

17. “The

Glenelg Railway Act.—1881.

Acts relating to dissolved companies to apply to united company.

17. "The Adelaide, Glenelg, and Suburban Railway Act, 1871," the "Holdfast Bay Railway Act, 1878," and the several Acts and Ordinances, and parts thereof respectively incorporated therewith respectively, and the provisions thereof respectively, shall, unless inconsistent with this Act, and except so far as they are hereby altered, varied, or repealed, remain in full force and effect, and apply to the united company and the undertaking and the railway as hereinbefore defined.

Capital and division into shares.

18. The capital of the united company shall be Ninety-four Thousand Pounds, divided into ninety-four thousand shares of One Pound each, subject nevertheless to the same being increased pursuant to any of the provisions in that behalf contained in the memorandum and articles of association of the united company hereinbefore referred to, or "The Companies Act, 1864," or any amendment or amendments thereof. And such shares shall be issued as fully paid-up shares as provided by the next succeeding clause, and it shall not be necessary prior to the issue of such shares to enter into or to file with the Registrar of Companies any contract in the terms of clause 27 of the Act, No. 22 of 1870-71, intituled "An Act to amend the Companies Act, 1864."

Capitals of Holdfast Bay Railway Company and Adelaide, Glenelg, and Suburban Railway Company merged in capital of united company, and appropriations of shares in such capital.

19. The capital of the Holdfast Bay Railway Company, Limited, and the capital of the Adelaide, Glenelg, and Suburban Railway Company, Limited, shall be merged in the capital of the united company, and the holders of shares in the Holdfast Bay Railway Company, Limited, at the time of this Act coming into operation, shall be entitled to and shall accept ten fully paid-up shares in the capital of the united company, in lieu of every nine shares then held by them respectively in the Holdfast Bay Railway Company, Limited, subject nevertheless to the payment of any calls, interest, or charges due and payable in respect of such shares respectively at the time of the passing of this Act: And the holders of shares in the Adelaide, Glenelg, and Suburban Railway Company, Limited, at the time of this Act coming into operation, shall be entitled to and shall accept one fully paid-up share in the capital of the united company, in lieu of every share then held by them respectively in the Adelaide, Glenelg, and Suburban Railway Company, Limited, subject nevertheless to the payment of any calls, interest, or charges due and payable in respect of such shares respectively at the time of the passing of this Act: Provided always that every holder of shares in either of the said companies shall, before demanding or receiving a certificate or certificates of proprietorship of any share or shares in the united company, and before being entitled to receive any dividend or other benefit from, or to vote at any meeting of the shareholders of the united company in respect of any share or shares therein, deliver up to the secretary or other proper officer for the time being of the united company the certificate or certificates of his share or shares in the Holdfast Bay Railway Company, Limited, or the Adelaide, Glenelg, and Suburban Railway Company, Limited, as the case may be, to the end that the same may be cancelled.

20. If

Glenelg Railway Act.—1881.

20. If any shareholder or member of the Holdfast Bay Railway Company, Limited, or of the Adelaide, Glenelg, and Suburban Railway Company, Limited, shall object to accept shares in the united company, according to the provisions of the next preceding section, and shall express his objection thereto in writing, left at the registered office for the time being of the united company, before the expiration of one calendar month from the passing of this Act, such objecting shareholder or member may require the united company to purchase the share or shares held by such objecting member in the respective companies hereby amalgamated and united, or either of them, at a price to be determined in manner hereinafter mentioned.

Shareholders object-
ing to amalgamation.

21. The price to be paid for the purchase of the share or shares of any objecting shareholder or member may be determined by agreement; but if the parties dispute about the same, such dispute shall be settled by arbitration, and such arbitration shall be conducted as near as may be according to the provisions hereinafter contained, that is to say—

Price of shares to be
determined by
arbitration.

- i. When any such dispute shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall, by writing, nominate and appoint an arbitrator, to whom such dispute shall be referred; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation; and if, for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final:
- ii. If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or become incapable, or refuse, or for seven days neglect, to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted, as aforesaid, shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, or disability, as aforesaid:

iii. Where

Glenelg Railway Act.—1881.

- III. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, and if such umpire shall die, or refuse, or for seven days neglect to act, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire on the matters referred to him shall be final :
- IV. If, in either of the cases aforesaid, the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect, to appoint an umpire, it shall be lawful for the Commissioner of Public Works, on the application of either party to such arbitration, to appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ shall be final :
- V. The said arbitrators, or their umpire, may call for the production of any document in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose :
- VI. The costs of and attending every such arbitration* to be determined by the arbitrators shall be in the discretion of the arbitrators, or their umpire, as the case may be :
- VII. The submission to any such arbitration may be made a rule of any of the superior courts on the application of either of the parties.

Existing mortgages
and bonds to be borne
by united company.

22. The mortgages already granted by the Holdfast Bay Railway Company, Limited, as hereinbefore recited, shall, until the same shall be respectively satisfied by the united company (so far as regards the principal sums secured by such mortgages respectively, and the interest due thereon or hereafter to become due thereon), be considered as mortgages of the undertaking and tolls of the united company, and future calls if comprised therein, and such principal sums and interest as aforesaid shall be paid and borne by the united company: And all bonds already issued or given by the Adelaide, Glenelg, and Suburban Railway Company, Limited, as hereinbefore recited, shall, until the same shall be respectively paid and satisfied by the united company (so far as regards the principal sums secured and made payable by such bonds respectively, and the interest due thereon or hereafter to become payable in respect of such bonds respectively), be considered as bonds issued or granted by the united company, and such principal sums and interest, as aforesaid, secured by such bonds respectively, shall be borne and paid by the united company, and such mortgages and bonds respectively, and the principal and interest moneys secured thereby respectively, shall, until the same shall be satisfied or exchanged for mortgages or bonds

of

Glenelg Railway Act.—1881.

of the united company, be a first charge on the undertaking and tolls and other revenue of the united company.

23. All tolls as hereinbefore defined shall belong and be payable to and recoverable by and in the name of the united company.

Toll to be payable to united company.

24. The united company may from time to time borrow on mortgage or bond, or partly on mortgage and partly on bond, such sum or sums of money as may be from time to time authorised and determined on by any general meeting of the shareholders of the united company, for paying off the principal sums secured by the mortgages and bonds so granted, given, and issued respectively by the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, as hereinbefore recited, and the interest now due or hereafter to become due on such principal sums, and for the making and maintaining the railway as hereinbefore defined, and for the general purposes of the united company and this Act: Provided always that the amount outstanding on mortgages secured on the undertaking and tolls of the united company, or bonds, shall not at any time exceed together the sum of Sixty Thousand Pounds.

Power, to borrow and application of moneys.

25. A statutory declaration made by the secretary for the time being of the united company, in the form or to the effect set forth in Schedule B, endorsed on any mortgage or bond granted, given, or issued by the united company, shall be sufficient evidence of the authority to grant, give, or issue such mortgage or bond, and to borrow the principal moneys thereby respectively secured.

Evidence of authority for borrowing.

26. If, after having borrowed any part of the money by this Act authorised to be borrowed, the united company pay off the same or any part thereof, or if the united company shall pay off any moneys at the passing of this Act secured by mortgage or bond, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the united company specially convened for the purpose, unless the money be so re-borrowed in order to pay off any principal money borrowed by virtue of this Act, or to supply the place of any principal money so borrowed and paid off.

Re-borrowing power.

27. Every mortgage and bond for securing the repayment of money borrowed by the united company shall be made by deed under the common seal of the united company, and the consideration shall be truly stated therein, and every such indenture of mortgage or bond shall be in the respective forms set forth in the Schedule C to this Act annexed, or on some form to the like effect; but no such indenture of mortgage shall contain any provision securing, or purporting to secure, further advances.

Forms of mortgage and bond.

28. Subject to the provisions of clause 22 of this Act, the respective

Rights of mortgagees.

Glenelg Railway Act.—1881.

respective mortgagees and their assigns shall, one with another, be entitled to their respective proportions of the tolls, sums, and premises comprised in their respective mortgages, and of the future calls (if comprised therein) payable by the shareholders according to the sums in such mortgages respectively mentioned to have been advanced by the respective mortgagees, and to be repaid with interest at the rate mentioned in such mortgages, without any preference one above another by reason of priority of the date of any such mortgage, or of the meeting at which the borrowing of the money secured thereby was authorised, or otherwise howsoever.

Payment of calls
notwithstanding
mortgage.

29. Notwithstanding that any such mortgage comprises future calls on the shareholders of the united company, the moneys paid in respect of each such call shall, unless the mortgage expressly provides the contrary, be received by the united company, and applied to its purposes; and any shareholder of the united company who shall, without notice in fact of such express provision having been made, pay to the united company any money in respect or on account of any such call, shall not be liable for the same or any part thereof to the mortgagee.

Rights of obligees.

30. Subject to the provisions of clause 22 of this Act, the respective obligees in such bonds and their assignees shall rateably, according to the amount of the moneys secured thereby, be entitled to be paid out of the tolls or other property or effects of the united company the respective sums mentioned in such bonds and intended to be thereby secured, without any preference one above another by reason of priority of date of any such bond, or of the meeting at which the borrowing of the moneys thereby secured was authorised, or otherwise howsoever.

Register of mortgage
and bonds.

31. A register of mortgages and bonds shall be kept by the secretary of the united company, and within fourteen days after the date of the giving, granting, or issuing of any mortgage or bond by the united company, an entry or memorial specifying the number and the date of such mortgage or bond, and the sum of money secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such register, which may at all reasonable times be perused without fee or reward by any shareholder, or mortgagee, or bond creditor of the united company, or by any person interested in such mortgage or bond, or by any person authorised to act on behalf of any such mortgagee, bond creditor, or person.

Transfer of mortgage
and bond.

32. Any person entitled to any mortgage or bond may from time to time transfer his right or interest therein to any other person, and every such transfer shall be made by a deed, in which the consideration for the transfer shall be truly stated, and every such transfer shall be according to the form in the Schedule D to this Act annexed, or in a form to the like effect, and every deed of transfer in which the consideration is not truly stated shall be void.

33. Within

Glenelg Railway Act.—1881.

33. Within thirty days after the date of the execution of each such deed of transfer, if it should be executed within the Province of South Australia, or within thirty days after its arrival therein if it be executed elsewhere, it shall be produced to the united company's secretary, who shall thereupon cause an entry or memorial thereof to be made in the manner prescribed with respect to the original mortgage or bond. After such entry or memorial has been made, the transferee named in such deed of transfer shall be entitled under it to the full benefit of the original mortgage or bond in all respects, and the person by whom such transfer has been made shall not have power to make void, release, or discharge the mortgage or bond so transferred, or the whole or any part of the money thereby secured. For making such entry, the united company may demand from the person requiring it to be made the sum of Two Shillings and Sixpence, but the united company shall not be bound to make such entry until such sum has been paid, nor shall the united company be in any manner responsible to such transferee in respect of such mortgage or bond until such entry has been made, and the secretary has been paid such sum of Two Shillings and Sixpence. Every such deed of transfer which is executed out of the said province shall, within thirty days after its execution, be transmitted to the united company's secretary for registration.

Registration of transfers.

34. The interest of the mortgage debts and bond debts respectively shall, at the times named in the mortgages and bonds respectively for payment of such interest, be paid to the several persons entitled thereto, and in preference to any dividends payable to the shareholders of the united company. If times for payment of interest be not named in any bond or mortgage, the interest on the moneys thereby respectively secured shall be paid half-yearly, and the first payment thereof shall be made at the expiration of six months from the date at which the moneys thereby respectively secured were paid to the united company.

Interest.

35. The united company may, if they think proper, fix a day on which the principal moneys hereafter borrowed by the united company, with the interest thereon, shall be repaid, and shall, on or before that day, repay the same to the person entitled thereto, and the day (if any) so fixed shall be specified in the bond or mortgage. If the whole or any part of the principal moneys so borrowed, or of the interest (if any) due thereon, shall, on the day after that specified for the repayment thereof, remain unpaid, the person entitled thereto may forthwith sue the united company for the recovery thereof.

Date of payment.

36. Repayment of the whole or any part of the principal moneys so borrowed, and payment of the interest thereon, shall in all cases be made at the united company's principal office or place of business, unless some other place be named for that purpose in the mortgage or bond; and the united company shall always have its principal office or place of business in the City of Adelaide or Glenelg, in the Province of South Australia.

Place of payment

37. If,

Glenely Railway Act.—1881.

Money may be called
in.

37. If, in any mortgage or bond, a time for the repayment of the principal money be not fixed, the person entitled thereto may, at any time after the expiration of one year from the date of such mortgage or bond, demand repayment of such principal moneys, and payment of all (if any) arrears of interest due thereon: Provided that a notice in writing of the intention to make such demand has, at least six calendar months before the making thereof, been given to the united company, by or on behalf of the person who, at the time of giving such notice, is entitled to such principal moneys; and if the whole or any part of the principal moneys, or of the interest (if any) due thereon, shall, at the expiration of one week from the day on which such demand is made, remain unpaid, the person entitled thereto may forthwith sue the united company for the recovery thereof.

Money may be paid
off.

38. If, in any mortgage or bond, a time for the repayment of the moneys be not fixed, the united company may, at any time after the expiration of one year from the date of any such mortgage or bond respectively, pay to the person entitled thereto the principal moneys secured thereby respectively, and all arrears of interest (if any) due thereon, provided a notice, in writing, expressing the intention of the united company to make such payment, and requiring the person entitled to such principal moneys and interest to attend on a day named in such notice at the principal office or place of business; of the united company (or if a place has been named for that purpose in the mortgage or bond, then requiring attendance at such place), has, at least six calendar months before the day in such notice named for such attendance, been given by the united company to the person who is at the time of giving of such notice entitled to such principal moneys and interest, and such person shall personally, or by some agent authorised by him in writing to receive such principal moneys and interest, and to give a proper discharge for the same, approved of by the united company, attend on the day and at the place named in such notice and receive such principal moneys and interest, and give a proper discharge therefor.

Notices of intention
to call in or pay off.

39. Every such notice of an intention to demand repayment of the principal moneys secured by any mortgage or bond, and payment of the interest thereon, shall be delivered to the secretary of the united company, or left at its principal office or place of business, and every such notice of an intention on the part of the united company to pay such principal moneys and interest shall be delivered to the person entitled thereto, or shall be left at, or sent by post to, some place situate within the Province of South Australia, and named in the mortgage or bond as his address, or to such other address within the said province as the person for the time being entitled to such principal moneys and interest shall from time to time furnish in writing to the united company. If an address is not mentioned in the mortgage or bond, and the person entitled to the principal moneys and interest has not furnished an address in writing to the united company, then such notice shall be given

Glenelg Railway Act.—1881.

given by an advertisement published once in the *Government Gazette*, and in some one or more of the newspapers which shall then be published daily in the City of Adelaide.

40. Whenever the united company has given (as in this Act provided) to any mortgagee or bond creditor notice of their intention to pay the principal moneys and interest thereon, at a time when the united company is entitled to make such payment, then, from and after the day named in such notice for such payment, interest shall cease to accrue on or be payable in respect of such principal moneys, unless the united company shall fail to make such payment on the day named in such notice for that purpose; and the person entitled to such principal moneys and interest, personally or by some agent authorised by him in writing to receive such principal moneys and interest, and to give a proper discharge therefor, shall attend on the day named in such notice at the united company's principal office or place of business to receive the principal moneys and interest, and to give a proper discharge for the same. Stoppage of interest

41. All or any of the mortgagees of the united company may, severally or in conjunction with each other, enforce, by obtaining the appointment of a receiver, the payment of arrears of interest due on any mortgage, debt, or debts due to him or them on the payment of such debt or debts and the interest due thereon. In order to authorise the appointment of a receiver, the amount owing to the applicant mortgagee or mortgagees for interest or for principal moneys shall not be less than the sum of Ten Thousand Pounds in the whole. Appointment of receiver by mortgagees.

42. Whenever the arrears of interest due to any mortgagee or mortgagees of the united company amount to the sum of Three Thousand Pounds, and have remained unpaid for thirty days after the day or days on which they become payable, the person or persons to whom such arrears of interest are due may, after having respectively made on the united company a written demand for payment thereof, but without prejudice to his or their right to sue at law or equity for such arrears of interest by an application to be made in the manner hereinafter mentioned, require the appointment of a receiver. Appointment for default in payment of interest.

43. Whenever any mortgage debt or debts of the united company have, without the consent of the mortgagee, remained unpaid for six months after they became payable, and amount to the sum of Six Thousand Pounds, the person or persons to whom they are due may, after respectively making on the united company a written demand for the repayment of the respective sums due to them, but without prejudice to his or their right to sue at law or in equity for any such mortgage debt or debts, together with all arrears of interest due thereon, require the appointment of a receiver in the manner hereinafter mentioned. Appointment for default in payment of principal.

44. Every application for a receiver, under either of the last Appointment of receiver.
two

Glenelg Railway Act.—1881.

two sections, shall be made to a Judge of the Supreme Court of the Province of South Australia not less than seven days after written notice of such intended application, and the day and hour thereof, shall have been served upon the united company; and such Judge may, when any such application has been made, after hearing the applicant mortgagee or mortgagees, or any practitioner of the Supreme Court of the Province of South Australia, acting on his or their behalf, and if the united company oppose such application, after hearing them by counsel acting on behalf of the united company, appoint some fit person to receive the whole or a sufficient part of the tolls or moneys liable to the payment of such interest, or the repayment of such mortgage debt or debts, as the case may be, until there has been full payment of such interest, and full payment of such mortgage debt or debts, as the case may be, together with all costs of the applicants properly or necessarily incurred in making or in respect of the said application, and also all costs, charges, and expenses properly or necessarily incurred in receiving and collecting the aforesaid sum and tolls, and in paying over the same to the applicants.

Power and duties of receiver.

45. After such appointment has been made by a Judge, and after a true copy of the order whereby such appointment is made has been delivered to the secretary of the united company, or left at their principal office or place of business, all tolls or sums of money which are liable to pay such interest and principal, and which the united company may receive, shall be paid by the several persons receiving them, or by the united company, to the person appointed receiver thereof by such order, and shall be received by him to the use of the applicant mortgagee or mortgagees, and his or their transferees, and shall be applied by the receiver to pay, in the first place, all the aforesaid costs, charges, and expenses, and the surplus, if any, shall be applied in paying to the applicants rateably the amounts due to them respectively.

Termination of powers of receiver.

46. The power and authority of the receiver shall determine whenever all such costs, charges, and expenses, arrears of interest, and mortgage debt or debts, have been fully paid, and the surplus receipts (if any) shall be paid by him to the united company.

Access to company's books.

47. At all reasonable times the united company's books of account shall be open to the inspection of every mortgagee and bond creditor of the united company, and of any person acting on his behalf, and every such mortgagee, bond creditor, or person, shall be entitled to make extracts therefrom without fee or reward.

Moneys borrowed on mortgage to be paid first.

48. All interest for the time being due on any moneys heretofore or hereinafter to be borrowed on mortgage, and all principal moneys from the times at which they respectively are advanced, shall have against the united company, and against the property from time to time of the united company, priority over all other claims on account of any debt to be incurred or engagement to be entered into by them;

Glenelg Railway Act.—1881.

them: Provided always that such priority shall not prejudice or affect the lien of any unpaid vendor for the unpaid purchase-money of any land taken from him by the united company for the purposes of the railways.

49. The united company shall provide trains in sufficient number for ordinary traffic between Adelaide and Glenelg, and shall cause such trains to run hourly on each week day between the hours of seven a.m. and eleven p.m., and shall, except on race days or other special occasions, cause nine trains at the least to be run daily between Adelaide and Glenelg on each line each way, and may demand and take for every passenger conveyed upon either of the said railways between Adelaide and Glenelg, for the use of the railways and cars, and for motive power and every other expense incidental to the conveyance of such passenger, any tolls or charges, provided that as to every passenger travelling or riding in a carriage marked or designated "second-class," the same shall not exceed One Penny per mile, and for every first-class passenger One Penny and One Half-penny per mile; but so that for every passenger conveyed for a distance less than three miles the united company may demand and take tolls and charges as for three miles, and for every fraction of a mile beyond three miles, or beyond any greater integral number of miles, the united company may demand and take tolls and charges for one mile. Sufficient second-class accommodation for passengers shall be provided by the company with each ordinary train; and the united company may demand and take for every passenger conveyed upon the railway or tramway between Glenelg and Brighton, for the use of the railways and cars, and for motive power and every other expense incidental to the conveyance of such passenger, any tolls or charges not exceeding the sum of Two Pence per mile, but so that for every passenger conveyed for a distance less than three miles the united company may demand and take tolls and charges as for three miles, and for every fraction of a mile beyond three miles or beyond any greater integral number of miles the united company may demand and take tolls and charges for one mile: Provided that for every passenger travelling for a single return journey from Adelaide to Glenelg and back again, or *vice versa*, the united company shall not demand and take any fare exceeding One Shilling for the return journey second class, and One Shilling and Sixpence for the return journey first class, and for a single journey either way on either line the united company may demand and take for tolls Ninepence for the second class, and One Shilling for the first class: Provided also that the said company shall during the summer months, from the first of October to the thirty-first of March, on every week day, cause a train from Glenelg to reach Adelaide in sufficient time to enable the passengers thereby to proceed northward by the first train leaving the railway station at Adelaide not earlier than seven o'clock a.m.: Provided also that periodical or season tickets shall be issued by the united company at rates not exceeding those charged on the railway between Adelaide and Port Adelaide at the time of the passing of this Act, and shall issue return tickets on demand.

Number of trains
daily.

Tolls for passengers.

50. The

Glenelg Railway Act.—1881.

Scale of rates for
animals and goods

50. The united company may demand and take for all animals and goods carried on the railways, including tolls for the use of the railways and of cars, wagons, and trucks, and for motive power and every other expense incidental to such carriage (except a reasonable charge for loading and unloading such animals or goods, and for removal, delivery, and collection thereof, and for any other service incidental to the business or duty of a carrier where any such service shall be performed by the united company), any tolls or charges not exceeding the following—

For one horse, ass, mule, bull, cow, or any beast of burthen, Six Shillings; for two, Ten Shillings; for three, Fourteen Shillings; and Four Shillings per head for every additional horse, ass, mule, bull, cow, or other beast of burthen; for any distance.

For every bull, ox, cow, or neat cattle, Twopence per mile:

For every calf, sheep, lamb, goat, dog, pig, or other small animal, up to ten inclusive, One Shilling per head; and for every calf, sheep, lamb, goat, dog, pig, or other small animal, beyond the number of ten, Sixpence per head; but so that the minimum charge to be made shall not in any case be less than Five Shillings:

For all other goods, One Shilling per ton per mile:

Provided nevertheless that, with respect to small parcels not exceeding in weight one hundred and twelve pounds each, and also with respect to single articles of great weight, the united company may demand and take any tolls or charges not exceeding the following—

For every parcel not exceeding twenty-five pounds in weight, Sixpence, for any distance:

For every parcel exceeding twenty-five pounds and not exceeding fifty pounds in weight, Ninepence:

For every parcel exceeding fifty pounds and not exceeding one hundred pounds in weight, One Shilling:

For every additional fifty pounds, or fractional part of fifty pounds, Threepence:

Provided always that articles sent in large aggregate quantities, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but the term small parcels shall apply only to single parcels in separate packages; and for the carriage of any single article the weight of which shall exceed one ton, the united company may demand and take such tolls and charges as they may think fit.

Mode of ascertaining
tolls and charges.

51. The following provisions shall apply to the fixing of all tolls and charges payable under the preceding section —

For all goods conveyed on the railways for a distance of less than three miles the united company may demand and take tolls and charges for three miles:

For

Glenelg Railway Act.—1881.

For every fraction of a mile beyond three miles, or beyond any greater integral number of miles, the united company may demand and take tolls and charges according to the number of quarters of a mile contained therein, and if there be a fraction of a quarter of a mile such fraction shall be deemed a quarter of a mile :

For every fraction of a ton, except in cases of small parcels and single articles mentioned in the said section, the united company may demand and take tolls and charges according to the number of hundredweights, and if there be a fraction of a hundredweight such fraction shall be deemed a hundredweight :

The weight of all goods, except stone and timber, shall be determined according to the usual avoirdupois weight :

For determining the weight of stone, fourteen cubic feet shall be deemed one ton in weight, and so in proportion for any smaller quantity :

For determining the weight of timber not exceeding twenty-five feet in length, the following shall be deemed one ton weight :—Forty cubic feet of cedar logs or bulk timber ; fifty cubic feet of deals or boards ; five hundred palings five feet in length ; four hundred palings six feet in length ; thirty-five bundles of imported laths ; thirty bundles of colonial laths.

52. The united company may demand and take double the usual tolls and charges in respect of furniture, musical instruments, and other light goods measuring more than two and a half cubic feet to one hundred pounds weight. Light goods.

53. Every passenger travelling upon the railways may take with him his ordinary personal luggage without any charge being made for the carriage thereof, but so that the weight of such luggage shall not exceed—in the case of a first class passenger, one hundred and twenty pounds ; of a second class passenger, one hundred pounds. Passengers may take luggage.

54. The united company shall not be bound, unless they shall think fit, to carry any animals or goods other than passengers' luggage not exceeding the weight mentioned in the preceding section, except by one daily train to be run for that purpose. Company not bound to carry goods except in special trains.

55. The united company shall not be bound to have a sufficient staff or appliances for loading or placing in, or unloading from, or taking out of, their stations or cars any animals or goods ; but the person wishing to forward the same shall, if required by the united company, at his own expense and risk, have the same loaded or placed in the car provided by the united company, and shall also, if required by the united company, undertake to have and have the said animals and goods unloaded from and taken out of such car and removed from the united company's premises at his own expense and

Company not bound to keep staff for loading.

Glenelg Railway Act.—1881.

and risk, and within a reasonable time after the arrival of the car at the place to which the united company shall undertake to carry the animals and goods. Provided nevertheless that the united company shall not be obliged to carry any live stock, either great or small, upon the line of railway between King William-street and Glenelg.

Special car.

56. The restrictions in this Act contained as to the tolls and charges which the united company may demand and take for the conveyance of passengers shall not extend to any special train or car, but shall apply only to the ordinary cars appointed by the united company from time to time for the conveyance of passengers.

Extra charges by agreement.

57. Nothing herein contained shall prevent the united company from demanding and taking, by agreement with the owners or persons in charge of any animals or goods carried on the railways, any tolls or charges in excess of those hereinbefore limited, either by reason of any special services performed by the united company in relation thereto or in respect to the conveyance by passenger cars of animals or goods.

Goods to be removed by owners.

58. The owners, consignors, or consignees of animals or goods carried on the railways shall remove the same from their place of destination within a reasonable time after their arrival, to be fixed by the united company by by-law; and, in default of such removal, such owners, consignors, or consignees shall be liable to pay to the united company such reasonable charge until such removal as shall be fixed by the united company by by-law.

By-laws.

59. It shall be lawful for the united company from time to time to make by-laws for preventing the commission of any nuisance in or upon any car, or on any of the premises of the united company, and for regulating the travelling upon or using and working of the railways, and the conduct of the officers and servants of the united company, and generally for providing for the management of the affairs of the united company, and carrying out the objects and purposes of this Act; and it shall also be lawful for the united company from time to time to repeal or alter any such by-laws, provided that such by-laws be not repugnant to law, and provided further that the by-laws contained in Schedule E to this Act annexed shall, from and after the passing of this Act, until altered, varied, or repealed by the united company, in pursuance of the power in that behalf contained in this Act, be the by-laws of the united company.

Penalty for offending against by-laws.

60. Any person offending against any by-law of the company shall forfeit for every such offence any sum not exceeding Five Pounds, to be imposed by the united company in such by-laws as a penalty for any such offence; and if the infraction or non-observance of such by-laws be attended with danger or annoyance to the public, or hindrance to the united company in the lawful use of the railways, it shall be lawful for the united company summarily to interfere

Glenelg Railway Act.—1881.

interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.

61. A copy of all by-laws made by the company after the passing of this Act shall be sealed with the seal of the united company, and submitted for approval to the Governor, who, on being satisfied that the same are framed in conformity with law, and are reasonable and proper, may confirm the same by writing under his hand; and no by-laws made by the united company after the passing of this Act shall have any force or effect until the expiration of fourteen days after a copy of such by-laws, and of the confirmation thereof by the Governor, shall have been published in the *Government Gazette*.

By-laws to be confirmed by Governor.

62. It shall be lawful for the Governor at any time to notify to the united company his disallowance of any by-laws then in force, and the time at which the same shall cease to be in force, and no by-law which shall be so disallowed shall have any force or effect after the time fixed by the notice for such disallowance, saving in so far as any penalty may have been then already incurred under the same: Provided that a copy of such notice shall be published in the *Government Gazette*, and the time of disallowance fixed by such notice shall not be earlier than fourteen days after the date of the first publication of such notice.

Governor may disallow by-laws.

63. The production of a written or printed copy of any by-laws of the united company made after the passing hereof, having an impression of the common seal of the united company affixed thereto, shall be sufficient evidence of such by-laws in all courts of law and equity in the said province, and in all cases where the same shall be required to be proved.

Proof of by-laws.

64. A copy of every half-yearly statement and balance-sheet of the united company, duly audited and certified by the chairman for the time being of the united company and also by the auditors thereof, shall be transmitted by the united company, free of charge, to the Auditor-General of the Province of South Australia, on or before the thirty-first day of January or the thirty-first day of July in each year, as the case may be: And if the directors for the time being of the united company shall fail to prepare the said statement and balance, or to transmit copies thereof as aforesaid, the united company shall for every such offence be liable to a penalty of Ten Pounds: And any such statement and balance-sheet shall be open at all reasonable hours to the inspection of the public on the payment of a fee of One Shilling for each such inspection.

Half-yearly balance sheet to be sent to Auditor-General.

65. The rails of every portion of the railways which pass along or through any street within the City of Adelaide and the Corporate Towns of Glenelg and Brighton, or along any public road, shall be laid and maintained in such a manner that the top of the rail shall not rise higher than the level of any such street, and in no case shall be so laid as to rise above the level of the road or interfere with the traffic passing across such rails; but it shall be lawful for the united

Top of rails to be laid level with surface of street.

Proviso.

Glenelg Railway Act.—1881.

united company to raise the level of any road, not being a road or street within the Municipality of the City of Adelaide, where it may be found necessary for the purposes of the railways, as shown on the deposited plans, the said united company making compensation to persons whose land, estate, or interest is injuriously affected by such alteration of levels, such compensation to be assessed and ascertained in the manner provided by the "Lands Clauses Consolidation Act."

Directors.

66. That George Dutton Green, Samuel Cornish, William Mair, James Harvey, Francis Edgar Grundy, Joseph Robert Murray, George Boothby, Henry Yorke Sparks, Robert Love, William Henry Gray, William Nathaniel Crowder, and Clement Sabine shall be the first directors of the united company from and after the passing of this Act, and such directors shall hold and continue in office subject to the provisions of the articles of association contained in Schedule A to this Act annexed.

Officers of dissolved companies to be officers of united company.

67. Except as otherwise provided in this Act, all clerks, officers, and servants who, at the time of the passing of this Act, are in the employment of the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, shall thereupon become clerks, officers, or servants of the united company, with the same rights and subject to the same obligations and incidents in respect of such employment as they would have had or been subject to as the clerks, officers, or servants of the said respective companies by this Act dissolved, and shall so continue unless and until they respectively are duly removed from such employment by the united company, or until the terms of their employment are duly altered by the united company.

Transfer to united company of lands under Real Property Act.

68. All lands of which at the time of the passing of this Act the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, were the registered proprietors under the "Real Property Act, 1861," or any amendment thereof, shall, as soon as conveniently may be after the passing of this Act, be transferred by the respective companies, proprietors thereof, for all the estate and interest of such proprietors respectively thereof, by memorandum or memoranda of transfer, to the united company and their successors, subject to any encumbrance or encumbrances affecting such lands respectively; and every such memorandum or memoranda of transfer, having the imprint thereon of the seal of the company, purporting to transfer the same to the united company, and being signed by two of the directors for the time being of the united company, shall, notwithstanding the respective companies are by this Act dissolved, be duly registered as a memorandum or memoranda of transfer made and executed under the provisions of the "Real Property Act, 1861."

Part of section 2031 to be conveyed by Government to united company.

69. Whereas all that piece of land situated in the Hundred of Adelaide, County of Adelaide, containing by admeasurement two acres one rood and thirty-six perches, or thereabouts, being portion
of

Glenelg Railway Act.—1881.

of the section No. 2031, and bounded as follows, that is to say—Commencing at a point on the eastern boundary of the said section, distant twenty chains north from the south-eastern corner of the said section; and thence running north along the eastern boundary of the said section, one chain eighty-seven links; thence running in a south-westerly direction to a point in the southern boundary of the said section, distant thirteen chains ninety-eight links west from the south-east corner of the said section, twenty-five chains eighty-six links; thence running east along the southern boundary of the said section one chain eighteen links, and thence running in a north-easterly direction twenty-three chains sixty-nine links, home to the commencing point—has, before the passing of this Act, been purchased and acquired by the Holdfast Bay Railway Company, Limited, for the purposes of “The Holdfast Bay Railway Act, 1878,” and the purchase-money therefor, and all compensation payable in respect thereof, has been paid to Her Majesty’s Government of South Australia, but no conveyance, land grant, or other assurance thereof hath ever been made, executed, or given to the Holdfast Bay Railway Company, Limited, and it is desirable that the fee-simple of the said piece of land should be vested in the united company and their successors, as hereinafter provided: Be it therefore Enacted, that forthwith, after the passing of this Act, the said piece of land, in fee-simple in possession, free from all encumbrances, restrictions, and reservations whatsoever, shall be vested in the Glenelg Railway Company, Limited, their successors and assigns absolutely.

70. All the costs, charges, and expenses of and incidental to the amalgamation, and the applying for, obtaining, and passing of this Act, shall be borne and paid by the united company.

Expenses of Act to be borne by united company.

71. It shall not be lawful for the united company to pay any interest or dividend on calls in respect of shares created under or by virtue of this Act out of any capital which the united company is authorised to raise, either by means of calls or of any power of borrowing.

Interest or dividend not to be paid out of capital.

72. The united company shall not, out of any money which the united company is hereby authorised to raise for the purposes of any existing Act, or this Act, pay any deposit or deposits required by the Standing Orders of the Legislative Council to be made for the purposes of any application to Parliament for a Bill for the construction of any other railway.

Deposits required by Standing Orders not to be paid out of capital.

73. Nothing herein contained shall be deemed or construed to exempt the railways by the said recited Acts, or this Act, authorised to be made, from the provisions of any general Act relating to such other Acts, or of any general Act relating to railways now in force, or which may hereafter pass during this or any future Session of Parliament, or from any future revision and alteration under the authority of Parliament of the maximum rates of fares and charges authorised by the said recited Acts or this Act.

Railway not to be exempt from any general Act.

74. The

Glenelg Railway Act.—1881.

Company not entitled to compensation from Government.

74. The united company shall not be entitled to claim any compensation whatever in respect of the construction by Her Majesty's Government, at any time after the passing of this Act, of any line or lines of railway or tramway, the construction of which may be, or may be supposed to injuriously affect the railway by this Act authorised to be constructed.

Sheds and buildings on South-terrace to be removed.

Cost of removal to be paid by Government.

75. The united company, within six calendar months after service at their registered office of a written notice, signed by the Commissioner of Public Works for the time being, requiring them to remove all the sheds, buildings, and erections then standing and being on that portion of the Park Lands situate at the junction of their railways with South-terrace, and on payment to the united company by Her Majesty's Government of Two Thousand Five Hundred Pounds, and by the Corporation of the City of Adelaide of the sum of One Thousand Eight Hundred Pounds, shall remove all the said sheds, buildings, and erections as now erected there, and the rails, sidings, junctions, and turntables, at present erected or placed upon the said Park Lands, shall be altered so that the same be placed upon the land shown in the plan deposited in the office of the clerk of the House of Assembly at Adelaide, and being of the uniform width of one chain, having for its eastern boundary the line shown in the said plan and thereon marked "proposed eastern boundary." And the united company shall not after such removal erect any sheds or buildings on any portion of the said Park Lands, except on that portion of the lands enclosed for the purposes of the railways marked "station" on the said plan, whereon it shall be lawful for the united company to erect a passengers' station and waiting-room, in accordance with plans to be approved of by the City Surveyor for the time being; and immediately after such removal the united company shall erect sufficient fences, at a uniform distance of one chain apart, so as to enclose the company's railway and sidings from the trespass of great cattle. And from and after the expiration of such six calendar months' notice, and payment of the said sum of Four Thousand Three Hundred Pounds as aforesaid, the right of the united company to occupy any portion of the Park Lands, other than that so to be enclosed of the width of one chain throughout, shall absolutely cease.

Company to pay Corporation annual sum for right of using locomotives in King William-street.

76. Until the City Council, by resolution or otherwise determines, it shall be lawful for the united company to use locomotive steam power in propelling trains and carriages from South-terrace along King William-street to Victoria-square, and from thence back again to South-terrace. And the united company shall, on the first day of December yearly, in every year after the passing of this Act, pay to the Corporation of the City of Adelaide a sum not exceeding the sum of Two Hundred Pounds, for the privilege of using steam locomotive power in King William-street while they shall have such privilege. And such annual sum may, at any time after the same shall have become payable, be recovered by distress upon any of the united company's rolling-stock.

77. Notwithstanding

Glenelg Railway Act.—1881.

77. Notwithstanding anything in this Act contained everything before the passing of this Act done, suffered, and confirmed respectively, under or by virtue of the several special Acts relating to the Holdfast Bay Railway Company, Limited, and the Adelaide, Glenelg, and Suburban Railway Company, Limited, respectively, shall be as valid as if this Act had not passed; and with respect to all things so done, suffered, and confirmed respectively, the united company shall to all intents represent the said companies respectively hereby dissolved. Except as enacted in the last preceding clause, nothing in this Act, or in the by-laws contained therein, shall be deemed to confer on the said Company any further or additional powers with respect to any streets or park lands situate within the City of Adelaide, with respect to the use in the said streets of steam traction power, than the Holdfast Bay Railway Act of 1878, and the Adelaide, Glenelg, and Suburban Railway Act of 1871, respectively, conferred upon the said companies amalgamated by this Act.

General saving of
rights and claims.

78. The power conferred upon Her Majesty's Government by the seventieth section of the "Holdfast Bay Railway Act, 1878," shall, notwithstanding anything contained in this Act to the contrary, remain in full force and effect, and the power of purchase thereby given shall, in the absolute discretion of Her Majesty's Government, extend and apply to the whole of the railways and undertaking of the united company, or to the railways and undertaking of the Holdfast Bay Railway Company, Limited, alone, or to the railways and undertaking of the Adelaide, Glenelg, and Suburban Railway Company, Limited, to the exclusion of the undertaking of the Holdfast Bay Railway Company, Limited; and it is hereby declared that the annual divisible profits mentioned in the said section shall not be estimated as in that section provided, but shall be such annual divisible profits as would, in the opinion of the arbitrators, have accrued to the undertaking or undertakings proposed to be purchased had the said companies not been amalgamated, and had the said undertakings continued in competition with each other: Provided nevertheless that, in the event of the additional railways mentioned in clause sixteen hereof being completed within the time therein limited, the power by the seventieth section of the "Holdfast Bay Railway Act, 1878," and hereby conferred, shall not be exercised until after the thirtieth day of November, one thousand eight hundred and eighty-three.

Power of Govern-
ment to purchase.

79. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such.

Public Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES.

Glenelg Railway Act.—1881.

SCHEDULES REFERRED TO.

SCHEDULE A.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF THE GLENELG RAILWAY COMPANY, LIMITED.

MEMORANDUM OF ASSOCIATION OF THE GLENELG RAILWAY COMPANY, LIMITED.

1. The name of the Company is the "Glenelg Railway Company, Limited."
2. The objects for which the company is established are:—
 - I. To provide railway communication between Adelaide and Glenelg and any intermediate towns and places, and railway or tramway communication between Glenelg aforesaid and the Town of Brighton, and any intermediate towns and places, and for such purposes; amongst others to take over and work upon the terms contained in the "Glenelg Railway Act, 1881," the railways and other works more particularly mentioned in such Act.
 - II. The acquiring by purchase, lease, exchange, or otherwise, and upon and subject to such terms and conditions and restrictions as may seem meet, all lands, buildings, rights, easements, and things, and all such privileges and concessions of whatsoever nature, or any share or interest therein respectively, which may be necessary, useful, or desirable for the purpose of the said company.
 - III. The purchasing, constructing, building, leasing, and hiring or otherwise obtaining, providing, and supplying steam-engines, railway cars and carriages, and tramway cars and carriages, horses, coaches, omnibuses, trollies, wagons, railway or other trucks, and vans and other vehicles, and conveyances, machinery, rails, sleepers, and rolling-stock, and all other appliances, plant, materials, goods, commodities, effects, and things necessary, useful, or desirable for the purposes of the company, including the acquiring of patents or concessions, or any interest therein, and the purchasing and accepting assignments of choses in action.
 - IV. The erecting, constructing, and maintaining in good order and sufficient repair all such machinery, permanent ways, turntables, works, stations, offices, sheds, stables, and buildings of any kind whatsoever which it may be necessary, expedient, or desirable to erect, construct, or maintain in connection with or as auxiliary to any of the purposes or powers of the company or the carrying out thereof.
 - V. The performing all such engineering, surveying, or other work as may be necessary or desirable.
 - VI. The fixing, imposing, charging, and taking traffic rates and tolls for passengers, cattle, merchandise, stone, wood, and goods used or being carried upon the said railways or tramways or any of them, and for the use of the said railways or tramways or any of them, by carriages, cars, trucks, or vans belonging to persons, companies, or corporations other than this company, and for passengers, cattle, merchandise, and goods conveyed thereby, and the making of any special or other arrangements or agreements in connection with or in relation to any of the matters or objects aforesaid.
 - VII. The making and entering into any special or other agreement or agreements with any person or persons, company or companies, corporation or corporations, for the construction of the said railways and tramways, or any or either of them, or any part or parts thereof respectively, and for paying the said contractors for making the said railways and tramways, or all or any of them, or any part or parts thereof, or for paying any of the debts or liabilities of the company, either wholly or partly, in fully or partially paid-up shares, or otherwise.
 - VIII. The selling, granting, assigning, leasing (with or without right of purchase), exchanging, transferring, or otherwise parting with or disposing of the business, property, railways, tramways, lands, buildings, rights, easements, privileges, concessions, works, stables, carriages, cars, horses, stock, machinery,

Glenelg Railway Act.—1881.

plant, materials, appliances, goods, commodities, effects, and things of or belonging to the company, or any of them, or any part thereof respectively, to any person or persons, company or companies, corporation or corporations, upon and subject to such terms, conditions, stipulations, and restrictions as may seem expedient.

- ix. The making, entering into, and completing any contract, agreement, or arrangement for the purpose of acquiring the right of using the permanent way and other property of any company, partnership firm, or other person carrying on business of a similar nature to the business of this company, or conducive to the carrying out of the several objects, matters, and things for which this company is formed, and by contract, agreement, or otherwise, to give and grant to Her Majesty's Government any company or partnership firm similar rights of using the permanent way and other property of this company, and the making and carrying into effect any working, traffic, or other arrangements and agreements with any person or persons, or partnership firms, or with any other railway, tramway, or carrying company or companies.
- x. The doing all or any of the matters or things mentioned in this memorandum of association, either alone or conjointly with any other company, authority, or person, and subject to any special terms or conditions, or otherwise, and the making, entering into, and completing any agreements and arrangements for uniting or amalgamating, either in whole or in part, the business of the company with that of any other company, corporation, partnership firm, or person engaged in and carrying on a similar business, or any business incidental or conducive to the carrying out the objects of the company, and the acquiring and holding shares in any such company.
- xi. The applying for, obtaining, accepting, adopting, and carrying into effect or otherwise any further Act or Acts of the Parliament of South Australia for empowering and better enabling the company to attain, effect, and carry out the objects and purposes of the company or any of them.
- xii. The issuing of any new capital of the company, either with or without a preferential dividend, or any other special advantage over the capital already issued.
- xiii. The raising money by mortgage of the property and effects of the company, or by bonds, debentures, or acceptances of the company.
- xiv. The undertaking and carrying out all such powers, purposes, and objects, in addition to, or other than, and in substitution of the aforesaid powers, purposes, and objects as the company may in general meeting or otherwise, as may be provided by the articles of association, from time to time determine.
- xv. The doing all such things as are or may be incidental or conducive to the attainment or carrying into effect of the above objects, purposes, and powers, or any of them.

4. The liability of the members is limited.

5. The capital of the company is £94,000, divided into 94,000 shares of £1 each, and subject to be increased, and any new shares by which the original capital may at any time, or from time to time be increased, may be issued with or without the right to a fixed or preferential dividend, or with any other special privileges or advantages which may seem expedient.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Dated this day of , 1881.

Names.	Signatures.	Addresses.	Description.	No. of Shares held by each Subscriber.	Witness.

ARTICLES

*Glenelg Railway Act.—1881.*ARTICLES OF ASSOCIATION OF THE GLENELG RAILWAY COMPANY,
LIMITED.

WHEREAS the several persons whose names are hereunto subscribed have been formed into a joint stock company for the purposes or objects mentioned in the memorandum of association registered herewith, under and subject to the rules and regulations hereunder written for the government of the said company. It is therefore agreed as follows:—

Table A, First Schedule of "The Companies Act, 1864," not to apply.

Interpretation clause.

1. The regulations contained in the table marked A in the first schedule to "The Companies Act, 1864," shall not, nor shall any of them, apply to this company except so far as the same may be repeated, or contained in these articles, which are substituted for the said regulations.

2. In the construction of these articles the following words and expressions shall have the several meanings hereby assigned to them, unless such meanings are expressly excluded or are repugnant to or inconsistent with the context or subject matter, that is to say:—

"Articles of association" shall mean as well these present articles of association as the same shall stand and be in force for the time being, either before or after any alteration which may hereafter be made therein under the power for that purpose hereinafter contained, as any and every supplementary, substituted, or amended articles of association which may be in force for the time being.

Words importing or signifying the singular number only shall include the plural, and words importing or signifying the plural only shall include the singular.

Words importing or signifying males only shall extend to and include females.

The word "company" shall mean the "Glenelg Railway Company, Limited."

"Member" shall mean member or shareholder of the company, and any person whose name for the time being is on the register, whether as sole or joint proprietor with any other person or persons of any share or shares.

"Month" shall mean calendar month.

"Directors" or "board" shall mean the directors for the time being of the company, or such number of the directors as have authority to act under these articles.

"Capital" shall mean the capital from time to time of the company.

"Shares" shall mean the shares from time to time into which the capital may be divided.

"Writing" shall include printing.

"Special resolution" shall mean a special resolution of the company according to the 50th section of "The Companies Act, 1864."

"Person" shall extend to and include partnership, company (incorporated or unincorporated), corporation, Her Majesty's Government of South Australia, any commissioner or member of the said Government, and any officer thereof.

"Plant" shall extend to and include real estate and chattels real.

"The business" shall mean any business or branch kind of business which may at any time or times be carried on by the company.

"The register" shall mean the register of shareholders of the company.

"Property" shall extend to and include unpaid calls and the amount (if any) unpaid or not called up on the shares, or any of them.

"Railway" shall include tramway.

"Secretary" shall mean secretary or acting secretary of the company for the time being.

Members entitled to copy of memorandum and articles of association. Company's business.

3. Every member shall, on payment of the sum of one shilling, be entitled to have a copy of the memorandum and articles of association.

4. The business of the company shall include the several objects expressed in the memorandum of association, and all matters which from time to time appear to the directors to be expedient for attaining those objects.

Any branch of business may be undertaken by directors, or left in abeyance as they think fit.

5. Any branch or kind of business which by these presents is either expressly or by implication authorised to be undertaken by the company may, but without prejudice to the power hereinafter given to general meetings, be undertaken by the directors at such time or times after the incorporation of the company as they shall think fit, and further, may be suffered by them to be in abeyance, whether such branch or kind of business may have been actually commenced or not, so long as the directors may from time to time deem it expedient to commence or proceed with such branch or kind of business.

Business to be carried on under management of directors.

6. The business shall be carried on by or under the management of the directors or any person whom they may appoint, subject only to the provisions of the "Glenelg Railway Act, 1881," and these articles, and such control of general meetings, or otherwise, as is hereby provided for.

7. The

Glenelg Railway Act.—1881.

7. The registered office of the company shall be at present in King William-street, Adelaide: but the directors may, when, and as they shall think fit, substitute some other place in Adelaide or Glenelg, in lieu thereof, and also establish such branch or other offices in or out of Adelaide, as they shall think fit, and appoint thereto such officers, clerks, and servants as they may deem advisable.

Places of business.

Capital and Shares.

8. The capital of the company (subject to the power to increase the same hereinafter contained), shall be and consist of £94,000, divided into 94,000 shares of £1 each, and shall be distributed in accordance with the provisions of the "Glenelg Railway Act, 1881."

Capital, £94,000; shares, 94,000, £1 each.

9. The shares shall be numbered in a regular series from 1 to 94,000, both inclusive, and all future shares to be issued as hereinafter mentioned shall, when issued, be numbered in a like regular series, commencing with the number succeeding that of the share last issued, and every share which, under the provisions hereinafter contained, may at any time be forfeited to the company, shall nevertheless continue to be distinguished by the number by which the same was originally distinguished; but, if under the provisions hereinafter contained any share shall be cancelled, the number by which the same was distinguished may be appropriated to any other share, or be treated as unappropriated, as may be thought fit.

Shares to be numbered.

10. A person shall be deemed to have accepted shares if, having applied for an allotment of shares, any shares shall have been allotted to him, or if he shall have signed any document admitting that he has accepted shares.

What deemed acceptance of shares.

11. With regard to any unallotted shares in the company, the directors may, if they think it advisable, determine that the same shall be issued only at such a premium as they may deem fit, or may from time to time sell or dispose of the same on such other conditions as they may consider advisable, whether the shares have or have not been previously forfeited or cancelled under the powers hereinafter conferred.

Power of directors as to disposal of unallotted shares.

12. All shares shall be deemed personal estate, and be transmissible as such.

Shares to be personal estate.

13. Every member shall, on payment of such sum as the directors shall from time to time prescribe, be entitled to a share certificate under the common seal of the company, specifying the shares held by him and the amount paid up thereon.

Company to issue certificate of proprietorship of share.

14. Share certificates may be in the form or to the effect following, that is to say:—

Form of certificate.

GLENELG RAILWAY COMPANY, LIMITED.

Capital, £94,000 in 94,000 shares of £1 each.

This is to certify that _____ of _____ is the proprietor of _____ shares, numbered _____ to _____ in the Glenelg Railway Company, Limited, subject to the memorandum and articles of association of the said company.

Given under the common seal of the said company this _____ day of _____ one thousand eight hundred and _____

Secretary.

A. B. } Directors of the
C. D. } said Company.

15. The first share certificates shall be issued free of charge.

First scrip to be issued free of charge. Directors may renew certificate of shares worn or lost.

16. If any certificate shall be worn out or damaged, then, upon such certificate being produced at some meeting of the directors, it shall be cancelled, and on payment of such sum as the directors may from time to time prescribe, another certificate shall, if he require the same, be given to the person in whom the property of such certificate and of the share therein mentioned shall at the time be vested; or if such certificate be lost or destroyed, then, upon proof thereof and indemnity respectively to the satisfaction of the directors, and on payment of such sum as the directors may from time to time prescribe, a similar certificate shall, if required, be given to the person entitled to the certificate so lost or destroyed.

17. The directors shall not be bound to inquire into the title of any person producing a share certificate, but such production shall be sufficient evidence of the title thereto of the person holding the same; and the company shall be, and are hereby, indemnified and held harmless from any loss which may occur to any shareholder in consequence of the company or the directors causing or permitting the holders of such share certificate to be registered.

Directors not bound to inquire into title of holder of share.

18. No notice of any trust, express or, implied, or constructive, shall be entered on the register, or be receivable by the company, and the company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any

No trusts recognised.

Glenelg Railway Act.—1881.

any share may be subject; and except as may be otherwise provided by these articles, the receipt of the person in whose name any such share shall stand in the register, or if it shall stand in the names of more persons than one, the receipt of any one of the persons in whose names the same shall stand from time to time shall be a sufficient discharge to the company for any dividend or other sums of money payable in respect of such share notwithstanding any trust to which such share may then be subject, and whether or not the company shall have had notice of such trust, and the company shall not be bound to see to the application of the money paid upon any such receipt.

Registration of member and payment of calls, condition, precedent to exercise of shareholder's rights.
No equitable, contingent, or future interests recognised.

19. No person shall exercise any rights or privileges of a member until he shall have been registered in the register of members, and shall have paid all calls and other moneys due for the time being on every share held by him.

20. The company shall not, except as may by these articles be otherwise expressly provided, be bound by nor recognise any equitable, contingent, future, or partial interest in any share or any other right in respect of a share than the absolute right hereto in accordance with these articles.

Shareholders to notify change of abode—female marriage.

21. No member who shall change his place of abode, or being a female shall marry, and no husband of such last-mentioned member, shall be entitled to receive any dividend, or to vote until notice of the change of name, or abode, or of the marriage be given to the company.

When shares forfeited by company, previous holder exonerated from liability.

22. Whenever any share shall be forfeited, or duly transferred as hereinafter provided, the previous holder of any such share shall from and after such forfeiture or transfer be subject to no fresh liability in respect thereof or in respect of any subsequent contract of the company. But no shareholder by such forfeiture or transfer shall thereby, as between himself and the company, get rid of any liability to or claim of the company against him in respect of calls, or otherwise, existing at the time of such forfeiture or transfer.

Increase of Capital.

Increase of capital.

23. The directors may, with the sanction of a special resolution of the company previously given in general meeting, increase the capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts as the company in general meeting directs; or, if no direction be given, as the directors think expedient; and any such new shares may be issued, if the company in general meeting think fit, with a fixed or preferential dividend, or any other special privileges or advantages which may seem expedient.

New shares to be first offered to members.

24. Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or, on the receipt of an intimation from the member to whom such notice is given, that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company.

New capital to be considered original capital, and subject to same conditions.

25. Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on nonpayment of calls or otherwise, as is hereinafter provided.

Conversion of Shares into Stock.

Directors with sanction of company may convert paid-up shares into stock.

26. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock. When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interests in the same manner and subject to the same regulations as and subject to which any shares in the capital of the company may be transferred, or as near thereto as circumstances admit.

27. The several holders of the stock shall be entitled to participate in the dividends and profits of the company according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages for the purpose of voting at meetings of the company and for other purposes as would have been conferred by shares of equal amount in the capital of the company, and so that none of the privileges and advantages except the participation in the dividends and profits of the company shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Calls

*Glenelg Railway Act.—1881.**Calls on Shares.*

28. The sum of two shillings and sixpence per share, being the application fee, and the sum of two shillings and sixpence per share, being the allotment fee, making together the sum of five shillings per share, is hereby declared to be payable upon all shares hereafter allotted; and every member shall be liable to pay the same, or so much thereof as may from time to time remain unpaid, to the secretary, at the registered office of the company forthwith, and without the necessity of any previous notice or demand whatsoever.

29. The directors may from time to time make such calls upon the members in respect of all moneys unpaid or deemed to be unpaid, on their respective shares, as they shall think fit, and each member shall be liable to pay the amount of every call so made to the person or bank, and at the time or times and place or places appointed by the directors, notice of such call having been made and signed by the secretary, or any other officer of the company for the time being, or by one of the directors, shall be given by advertisement four times at least in one or more daily papers, and once at least in some weekly paper published in Adelaide. And the form of such notice shall be as follows, or as near thereto as circumstances will permit:—

Directors may make calls.

Calls how made.

GLENELG RAILWAY COMPANY, LIMITED.

Notice is hereby given that a call of _____ per share has been this day made by the directors of the above company, and is payable to the secretary at the registered office of the company on or before the _____ day of _____ 18____, and all shares in respect of which the said call remains unpaid at or after the said date will be liable to be absolutely forfeited to the company.

Form of notice of call.

Dated the _____ day of _____ 18____
(Signed)

Provided that no call shall exceed five shillings per share, nor be made payable at any shorter period than one month from the next preceding call; and for the purposes of this proviso, the sum paid pursuant to article No. 28 shall be considered a call.

Call not to exceed five shillings per share, and be made at intervals not less than one month.

30. The directors may accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him, either in the discharge of the amount of a call payable in respect of any other share or shares held by him without any call having been made, and either with or without such rebate or otherwise, as the directors may think fit.

Power of directors to accept balance due on shares.

31. A call shall be deemed to have been made at the time when the resolution authorising such call was passed by the directors.

When call deemed to have been made.

32. If, on or before the day appointed for payment thereof, any member omit to pay the amount of any call to which he may have become liable, then such member shall pay interest on the amount in arrear at the rate of £15 per centum per annum from the day appointed for the payment thereof to the time of actual payment, but without prejudice to the right of the directors to proceed as in the 34th article mentioned.

If calls not paid when due, members to pay interest at £15 per cent.

33. Every shareholder on paying such call or calls shall declare to the secretary of the company the number or numbers of the share or shares in respect of which he pays such call or calls, and the secretary shall not be bound to receive such call or calls if such numbers are not furnished to him.

Shareholders to declare number of shares on which calls paid. Secretary not bound to receive calls unless numbers furnished.

34. In default of payment of any call on any share, including the sum of five shillings per share declared to be payable by article 28, the directors may, at their discretion, sue for and recover such call, or so much thereof as shall remain unpaid, or forfeit such share or shares in manner hereinafter provided.

Directors may sue for calls, or forfeit shares.

Forfeiture of Shares.

35. If any member shall fail to pay any call due on the day appointed for payment, the directors may, at any time thereafter during such time as the call or any part thereof shall remain unpaid, send a notice to him by post directed to him at his address appearing in the register, requiring him to pay such call, or the unpaid portion thereof, together with all interest and expenses that may have accrued by reason of such non-payment.

Member failing to pay calls to have notice.

36. The notice shall name a further day, not to be less than seven days nor more than fourteen days from the date of the notice, on or before which such call or the unpaid portion thereof, and all interest and expenses are to be paid. It shall also name the place or places where payment is to be made. It shall also state that in the event of non-payment at the time and place appointed, the shares in respect of which such call may have been made will be liable to be forfeited.

E

37. If

Glenelg Railway Act.—1881.

Power of forfeiture for non-payment of calls, &c.

37. If the requisition of any such notice as aforesaid be not complied with, any shares in respect of which such notice shall have been given may, at any time thereafter, before payment of all calls, interest, and expenses due upon or in respect thereof has been made, be declared to be forfeited by a resolution of the directors to that effect, of which resolution a minute shall be entered in the books of the company, and thereupon (unless such forfeiture be waived as hereinafter mentioned) such shares shall, as against such member, and any other person or persons whomsoever, be absolutely forfeited, and that without the necessity of giving such member any further notice; and no such forfeiture shall be impeached, or be liable to be impeached, by reason of any irregularities in the form of service of the notice in the last preceding articles mentioned.

Power of forfeiture for refusing to comply with regulations for carrying sale or amalgamation of company with other company into effect.

38. In case the whole or any part of the business or assets of the company shall be sold, or in case the company shall be amalgamated with any other company in accordance with the powers for that purpose herein contained, and the whole or any part of the consideration for such sale or amalgamation shall consist of shares of any other company, and any member of this company shall neglect or refuse to comply with any regulation which may be made affecting the shares of the company for the purpose of carrying such sale or amalgamation into effect, it shall be lawful for the directors to forfeit the share to which any person who shall so neglect or refuse, as aforesaid, may be entitled, and any share so forfeited may be cancelled or sold, or otherwise dealt with as the directors may determine.

Directors may accept surrender and forfeiture of shares.

39. The directors may, if they think fit, accept the surrender and forfeiture of his shares by any shareholder desirous of surrendering and forfeiting them on such terms as the directors may approve.

Forfeited shares to be property of company, and may be sold, re-allotted, or cancelled.

40. Every share forfeited or surrendered under any of the preceding articles, or under the provisions of the Glenelg Railway Act, shall be deemed to be the property of the company, and may be sold or re-allotted, or otherwise disposed of for the benefit of the company, and transferred or dealt with in such manner as the directors shall think fit, or the same may be cancelled.

Members liable to pay calls owing at time of forfeiture.

41. Any member whose shares may have been forfeited or surrendered shall, notwithstanding, be liable to pay to the company all calls owing upon such shares at the time of the forfeiture or surrender thereof.

Evidence of forfeiture.

42. A certificate in writing, with the seal of the company attached, and under the hands of two directors, and countersigned by the secretary or acting secretary, that a share or shares has or have been duly forfeited in pursuance of these presents, and stating the time when forfeited, shall be conclusive evidence in any court of law or equity, or elsewhere, of the facts therein stated against all persons, and of the title of the company to dispose of the same; and such certificate may be given at any time by any two directors and the secretary as aforesaid, or entered in the minute or other books of the company for future reference.

Shareholders at general or special meeting may cancel forfeiture within six months.

43. It shall be lawful for, but not imperative upon, the shareholders present at any general or special meeting at any time within six calendar months after any forfeiture of any share shall have accrued to cancel the said forfeiture, and to authorise the directors to receive the instalment or call, with the interest thereon, or to accept such satisfaction for any other default by which the forfeiture may have accrued as they may think fit, and to receive from the defaulter such sum of money by way of redemption for the default as may be decided on at such meeting, and thereupon to remit such forfeiture, and restore the share to the original owner thereof as if no forfeiture had accrued; but no share, *bona fide* sold or disposed of under article 42, shall be redeemable after such sale or disposal.

Share Warrants to Bearer.

Directors may issue warrant under common seal in respect to any paid-up share or stock.

44. The directors may, should they think fit, subject to the provisions of these articles, with respect to any share which is fully paid up, or with respect to stock, issue under their common seal to any share or stock holder a warrant stating that the bearer of the warrant is entitled to the share or shares or stock therein specified; and may provide by coupons or otherwise for the payment of the future dividends on the share or shares or stock included in such warrant hereinafter referred to as a share warrant.

Fee to be charged by directors on issuing share warrant.

45. The directors may charge a fee of not exceeding five shillings on issuing each share warrant.

Warrant may be surrendered and member entered in register of shareholders.

46. The bearer of a share warrant shall, upon payment to the company of a fee for each warrant of two shillings and sixpence, and on surrendering such warrant for cancellation, be entitled to have his name entered as a member in the register.

Holder of warrant to be deemed shareholder, but not qualified to be director.

47. Every bearer of a share warrant shall be deemed to be a shareholder in the company to the extent of the shares or stock specified in such share warrant, but shall

Glenelg Railway Act.—1881.

shall not in respect of such shares or stock be qualified to be a director of the company.

Transfer and Transmission of Shares.

48. The person appearing in the register to be the holder of any share shall be entitled, subject to the articles in manner herein expressed, to sell and transfer such share to any person not being an infant, lunatic, or under any legal disability.

Holder of shares may transfer.

49. The instrument of transfer of any share in the company shall be executed both by the transferor and the transferee, and the transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the register of shareholders in respect thereof. Shares in the company shall be transferred in the following form:—

I, _____, of _____ in consideration of the sum of _____
 paid to _____ by _____ of _____ do hereby transfer
 to the said _____ the share [or shares] numbered _____
 in the books of the Glenelg Railway Company, Limited, to hold unto the said
 _____, his executors, administrators, and assigns, subject to the
 several conditions on which I hold the same at the time of the execution
 hereof, and I the said _____ do hereby take the said share [or
 shares] subject to the same conditions.

Form of transfer.

As witness our hands this _____ day of _____, 18 ____.

[Witness]—

50. The transfer shall be presented to the company, accompanied by the certificate of the share to be transferred, and such evidence as the directors may require to prove the title of the transferor. The directors, nevertheless, shall have the option of refusing to allow or register the proposed transfer, provided that written notice of such refusal be posted to the proposed transferor or left at his registered address within seven days after such transfer shall have been presented, and if notice of such refusal be not given in manner and within the period aforesaid, the directors shall be deemed to have approved and assented to such transfer, and thereupon and upon payment of a fee for registration not exceeding one shilling per share certificate, shall with all reasonable speed register the transferee as a member, and when registered, the instrument of transfer shall be deposited with and kept by the company: Provided always that in the event of a refusal of the directors pursuant to this article to register any transfer, the proposed transferor may at any time within three months after the posting or leaving the said notice, appeal to any special or general meeting against such refusal, and such meeting may direct the directors to register such transfer.

Evidence of title of transferor, &c.

Directors may refuse to register transfer, notice to be given to transferor. Fee to be paid on transfer.

51. The directors may refuse to register the transfer of any share made by a member whilst he or any joint holder of such share is indebted to them, either solely or jointly with any other person upon any account whatsoever except in respect of the uncalled amount due on such share, and in such case the refusal of the directors shall be final, and the company shall have a primary lien upon all such shares of any member for the amount of any debt due from him to the company either solely or jointly with any other person, and the company may absolutely sell and dispose of all or any of the shares of any member so indebted to them, and may transfer any such shares and apply the proceeds of such sale in or towards payment of the debt due from him as aforesaid, and the consent of any such member shall not be necessary for giving validity to any sale, disposition, or transfer, and the purchaser of any shares shall not be bound to ascertain whether any such power of sale shall have arisen or been properly exercised, and a resolution of the directors that such sale shall be made, and the entry of the name of the purchaser in the register as the holder of shares shall confer a good title on the purchaser as against all persons whomsoever, whether claiming under these articles, or otherwise howsoever, and exempt the purchaser from all liability in the respect of the purchase-money.

Directors may decline to register transfer of share by member indebted to them. Shall have lien on shares for debts, power of sale of shares for debts, &c.

52. A register of transfers shall be kept, and the same may be closed for any period not exceeding fourteen days immediately preceding each ordinary general meeting in each year; and also at such other time as the directors may deem expedient, so that the same be not closed for any greater period in the whole than thirty days in any one year.

When register of transfers may be closed.

53. The executors and administrators of a deceased member shall be the only persons recognised by the company as having any title to his shares, except in the case of shares held by two or more persons jointly, and subject to the provisions of these articles.

Executors, &c., entitled to shares of deceased member.

54. When any shareholder shall be an infant, or be or become lunatic or an idiot, or bankrupt or insolvent, within the meaning of any Act for the time being in force

Shares may be transmitted into names of guardian, committee,

Glenelg Railway Act.—1881.

assignee, or husband, or infant, lunatic, idiot, bankrupt, insolvent, or female shareholder.

Such persons shall give notice of desire for transfer, and furnish evidence of title.

Any person entitled to share, other than by transfer, may elect to have some person approved by directors registered as holder. Must execute transfer.

Directors, within seven days after receiving transfer, to give notice to transferor; if no notice given, transfer to be duly registered.

All general meetings to be held in Adelaide or Glenelg.

Date of first general meeting.

Dates of subsequent general meetings.

Titles of meetings.

Extraordinary general meetings, when to be called.

Requisition to state objects of meeting, and be left at office.

Meeting pursuant to such requisition to be held within seven days, and if directors do not convene it, requisitionists or other members may.

Seven days' notice to be given, and no business to be transacted except that mentioned in notice.

No business shall be transacted at general meeting except declaration of dividend, unless quorum present.

force for the relief of bankrupts or insolvent debtors, or being a female shall marry, his or her guardian, committee, assignee, or husband (as the case may be) shall be entitled, subject to the provisions herein contained, to require any share for the time being standing in the name of such shareholder to be transferred in the books of the company into the name of such guardian, committee, assignee, or husband, as the case may be.

55. Every such guardian, committee, assignee, husband, executor, or administrator as aforesaid, shall, if required, before being entitled to have any such alteration made in the register of shareholders, leave at the registered office of the company for the space of seven days, a notice in writing of his desire in that behalf, and shall also for the like space, if required, leave the decree, order, probate letters of administration, certificate of marriage, vesting order, or other instrument under which he claims, or official or attested copies of or extracts from the same, and shall also furnish or adduce such other evidence (if any) of his title as the directors shall think fit to call for; but neither this provision nor any entry in the books of the company of any such instrument or evidence of title shall bind the company to take any notice of, or to see to the execution of any trust, whether express, implied, or constructive, in relation to any such share.

56. Any person who has become entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being himself registered, elect to have some person to be named by him registered as a transferee of such share.

57. The person so becoming entitled shall testify such election by executing to his nominee a transfer of such shares, and such election and transfer shall be subject to the approval and assent of the directors.

58. The directors shall, within seven days after such transfer, as in the last preceding article mentioned, shall have been presented to them, give notice by post to the proposed transferor, at his last known address, whether or not they approve or assent to such election, and if such notice is not given in manner and within the time aforesaid, the directors shall be deemed to approve and assent to such election and transfer, and they shall thereupon register the same accordingly, and in case of refusal by the directors to assent to such election and transfer, the proposed transferor shall have the right of appeal to a general meeting, as provided for by article 50.

General Meetings.

59. All meetings of the company shall be held in Adelaide or Glenelg, at such place or places as the directors may from time to time determine.

60. The first general meeting shall be held in the month of November, 1881, at such time as the directors may determine.

61. Subsequent general meetings shall be held on such day in November and May respectively in every year, and at such time as may be determined by the directors.

62. The above-mentioned general meetings shall be called ordinary general meetings, all other general meetings shall be called extraordinary.

63. The directors may, whenever they think fit, and they shall, upon a requisition in writing by not less than forty of the members holding in the aggregate not less than three thousand shares, convene an extraordinary general meeting.

64. Any requisition so made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the company.

65. Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within seven days from the receipt of such requisition, the requisitionists, or any other members holding the required amount of capital, may themselves convene such meeting.

66. Seven days' notice at least, specifying the time and place of meeting, and the purpose for which the meeting is to be held, shall be given to the members in manner hereinafter mentioned, or such other manner as may be prescribed by the directors; and no business shall be transacted at such meeting other than that mentioned in such notice, but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

67. No business shall be transacted at any general meeting except the declaration of a dividend, unless a quorum of members be present personally, or by proxy, at the commencement of such business, and such quorum shall be and consist of thirty or more shareholders, holding not less than 3,000 shares in the aggregate.

68. If,

Glenelg Railway Act.—1881.

68. If, within fifteen minutes from the time appointed for the meeting, the required number of members be not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at such time and place as the directors may appoint; and at such adjourned meeting a quorum shall be twenty, and the aggregate number of shares 1,000; and if that number of members be not present, it shall be adjourned *sine die*, and no business shall be transacted except the declaration of a dividend.

If required number of members not present within fifteen minutes meeting convened upon requisition shall be dissolved—in other cases may be adjourned.

The chairman (if any) of the board of directors shall preside as chairman at every meeting of the company.

Who to be chairman of meetings.

70. If there be no such chairman, or if at any meeting he be not present at the time of holding the same, or shall decline to take or shall retire from the chair, the directors present shall choose some one of their number to preside thereat; and if no director be then present and willing to take the chair, or if any such member shall retire therefrom, the members present shall choose some one of their number to be chairman at such meeting.

In case chairman of directors not present.

71. The chairman presiding at any meeting may, with the consent of the meeting, adjourn such meeting from time to time, and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Chairman with consent of meeting may adjourn.

72. Whenever any general meeting shall be adjourned for more than seven days, three days' notice at least shall be given of such adjournment, and of the time and place of such adjourned meeting.

Notice of adjournment of general meeting.

73. At every general meeting all questions shall be determined by a show of hands, unless before the close of the meeting a poll be demanded in writing on any question by ten or more members present in person representing in the aggregate not less than 500 shares; but no poll shall be allowed on a vote on the appointment of the chairman, or on a question of the adjournment of the meeting.

At general meetings, questions to be decided by show of hands, unless poll demanded.

74. In case of an equality of votes upon any question the chairman of the meeting shall have a casting vote in addition to any votes he may be entitled to as a member.

Chairman to have casting vote in addition.

75. If a poll be demanded in manner aforesaid the same shall be taken in such manner and at such time and place as the chairman presiding at the meeting at which the poll is demanded shall direct, and the chairman may adjourn the meeting for a reasonable time to permit of the taking of such poll, and the result of such poll shall be deemed to be the resolution of the company in general meeting.

Manner of taking poll.

76. Minutes of the proceedings at every meeting shall be entered and kept in a book, and the minutes so entered shall be signed in the said book by the chairman of the meeting, or in case of his refusing or neglecting to sign the same for thirty-five days after the meeting, then such minutes may be signed by any four members entitled to vote and be present, and who were actually present at the meeting, and the said book when so signed shall be conclusive evidence that the proceedings minuted therein and purporting to be so signed as aforesaid were regular and actually took place as minuted at a meeting duly convened and held, and shall be binding on all the members of the company.

Minutes of proceedings to be entered in a book.

77. Any meeting of the company not duly called and holden shall be considered, in respect of the proceedings so minuted as aforesaid, as having been duly called and holden, and such proceedings shall be binding and effectual unless annulled at a special general meeting called for the purpose and held within three calendar months after the holding of such irregular general meeting.

Proceedings minuted to be binding, unless annulled by special general meeting.

78. After the chairman of any meeting shall have declared the meeting to be over and shall have left the chair no business or question shall, on any pretence whatever, be brought forward or discussed.

No business shall be discussed after chairman shall have vacated chair.

Powers of General Meetings.

79. General meetings are empowered to do any of the things following, that is to say:—

Powers of general meetings.

- I. To declare dividends (subject as hereinafter provided) and to consider and deal with the accounts and reports presented by the directors, auditors, and secretary in the ordinary course of their duty.
- II. To compel the production at the same or any other general meeting of any book, paper, or document, belonging to the company.
- III. To vote the remuneration of the directors and auditors as hereinafter provided for.
- IV. To confirm or otherwise dispose of any acts of the directors which may require confirmation.

To declare dividends.

To compel production of books, &c., belonging to company.

To vote remuneration of directors, &c.

To confirm acts of directors.

v. To

Glenelg Railway Act.—1881.

To fill up any vacant office: directors not empowered to.

v. To fill up any office which may be vacant, and which by these articles the directors are not empowered or have for any reason omitted to fill up, and also to fill up any office which may become vacant at such meeting and be required to be filled up.

To consider forfeiture of share, and other questions relating to affairs of company.

vi. To consider and deal with any forfeiture of shares, any refusal to register transfers of shares as hereinbefore provided, and any question, matter, or thing affecting the interests or relating to the affairs of the company which may arise upon the transaction of the aforesaid business or any part thereof.

Any other business.

vii. To transact any other business which a general meeting is, by these articles, authorised to transact without notice.

Powers of Extraordinary General Meetings.

Powers of extraordinary general meetings.

80. Any extraordinary general meeting is empowered to do the following things (due notice thereof having been given), that is to say:—

To authorise directors to borrow money.

i. To authorise the directors to charge or to borrow on mortgage of the property of the company, or on the bonds of the company, or partly on some and partly on others of such securities, or on any securities which may be available, and which the meeting may approve, such sum or sums of money beyond or in addition to or other than the sum of £10,000 which the directors are hereinafter authorised to borrow as may seem expedient; and if after borrowing any part of the money which may be authorised by such meeting to be borrowed, the directors pay off the same, or any part thereof, they may again borrow the amount so paid off, and so on from time to time, provided always that such power of re-borrowing shall not be exercised without the consent of the members in general or extraordinary general meeting assembled, unless the money be so re-borrowed in order to pay off any existing mortgage, bond, or other security given by the company.

To dissolve company.

ii. To dissolve the company under the provisions in that behalf hereinafter contained.

To sell the whole or any portion of the lands, &c., or to amalgamate with other company.

iii. To sell the whole or any portion of the business, plant, and other property belonging to the company, or to associate and amalgamate the company in co-partnership or otherwise with any other joint stock company, upon such terms and generally in such manner as to the meeting sanctioning or authorising such sale or association and amalgamation may seem expedient, or as the directors may think fit.

To determine route other than that in memorandum of association.

iv. To determine in, to, from, and between what townships and places the company shall construct and maintain railways or tramways, or both.

v. To authorise the directors to purchase such freehold or leasehold property as may be deemed advisable, and also to sell or let on lease or otherwise to any person or persons all or any portion of the lands belonging to the company, and to grant underleases for such term of years, at such rent, and under and subject to such covenants and conditions as the meeting may consider best for the interest of the said company.

Any other objects than that set forth in memorandum of association.

vi. To determine whether or not any objects in addition to and other than those set forth in the memorandum of association shall be undertaken by the company.

To amend articles of association.

vii. To amend, add to, or repeal all or any of the clauses or provisions of the articles of association of the company which may be in force for the time being, and otherwise to alter the constitution of the company as may be thought proper, provided always that every alteration or addition intended to be made in such articles of association shall be fully set out in the notice calling such meeting; provided, nevertheless, that nothing in this article shall extend to any of the articles or other regulations of the company, or to the repeal or alteration thereof which provide for the limitation of the liability of the members.

To increase capital of company by issue of new shares, &c.

viii. To increase the capital of the company by the issue of new shares either with or without a fixed or preferential dividend or any other special advantage over the capital already issued.

To exercise all powers of general meeting.

ix. To exercise all powers and all acts which any general meeting whatsoever may lawfully do by virtue of these articles, or which may be necessary for carrying into effect the objects of the company or any of them.

Votes of Members.

No shareholder to vote unless calls paid.

81. No member shall be entitled to take part in the proceedings or to vote at any meeting unless all calls due from or payable by him have been paid.

82. Every

82. Every member shall be entitled to one vote in respect of every three shares held by him.

**Registered shareholders
entitled to vote at
general meeting.**

All questions to be decided by majority of votes and scale of voting. Two scrutineers to be appointed if demanded.

**Votes of lunatics, &c.,
how taken.**

When share in two or more names, person whose name stands first to vote

Members may vote by proxy; proxy to be a member.

Form of proxy.

I, _____, being a member of the Glenelg Railway Company, Limited,
and entitled to _____ vote hereby appoint _____ of _____
as my proxy to vote for me and on my behalf at the [ordinary
or extraordinary, *as the case may be*] general meeting of the company to be
held on the _____ day of _____ next, and at any adjourn-
ment thereof [or at any meeting of the company that may be held in the
year 18 ____]. As witness my hand this _____ day of _____ 18 ____.

Signed by the said _____
in the presence of _____

Instrument appointing proxy, to be deposited with secretary, not valid after twelve months.

No objection to vote,
unless made at same
meeting.

Number of directors and first directors.

Qualification of directors.

Glenelg Railway Act.—1881.

New directors to be elected.

Vacancy in office of director may be filled up.

Director may be re-elected.

Fourteen days' notice of proposal of candidate to be given.

Retiring directors considered directors till end of meeting.

Director may vacate his office.

Adjournment of election of directors.

Number of directors may be increased or reduced.

Remuneration of directors.

How office of director may become vacant.

Company in extraordinary general meeting may remove director.

Directors shall hold board meetings.

Quorum of directors.

Chairman of directors.

right, and shall deposit the certificates of the shares forming such qualification with the secretary for the time being of the said company.

92. At the general meeting to be held in the month of November, 1881, and every general meeting thereafter, to be held in the month of November, new directors shall be elected in the place of the directors going out under clause 90.

93. Whenever a casual vacancy shall occur in the office of director by any means whatever, the directors shall be empowered to elect a duly-qualified member to fill the vacant office until the next ordinary general meeting of the company to be held in accordance with these articles of association, when such meeting shall elect a director to fill the vacant office.

94. Any director going out of office may be immediately, or at any time afterwards, re-elected.

95. Every member who may intend to propose a candidate for the office of director shall leave notice in writing of such intention with the secretary at least fourteen clear days before the day of election; but the provisions of this article shall not apply in the case of a retiring director who offers himself for re-election.

96. At every annual general meeting the directors going out of office shall, for the purpose of that meeting, be considered as directors in office until the end of the meeting, or any adjournment thereof, or until their successors are appointed.

97. Any director may at any time vacate his office by notice in writing to the secretary or leaving it at the registered office of the company, and the office of such director shall be considered as vacated on the acceptance of his resignation by the directors, and not before.

98. If, at any meeting whereat any election of directors ought to be held, no such election takes place, the meeting shall stand adjourned to the same day in the next week, at the same time and place; and if at the adjourned meeting no election take place, the directors who might have been bound to retire shall continue in office until the then next ordinary meeting, and so on from time to time until their places are filled up.

99. The company may at any annual ordinary general meeting in the month of November in any year increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office, and may alter the qualification for the office of director.

100. The remuneration to be paid to the first directors for their services up to the ordinary general meeting in November, 1881, and the remuneration of the future directors, shall be determined by the company in general meeting.

101. The office of any director shall be vacated if he accept or hold any other office under the company, if he become insolvent or compound with his creditors, or if he be declared lunatic or become of unsound mind, if he be absent from the board more than eight consecutive weeks without the consent of the board, if he cease, except as in these articles otherwise provided, to hold the required number of shares that would qualify him for the office, if he shall send in his resignation in writing to the directors, and such resignation shall be accepted by them as aforesaid, if he shall be removed by a resolution of an extraordinary general meeting: provided always that all acts done by such person as director, or by board, or by any committee of which he was a member before the discovery of such disqualification shall be valid, effectual, and binding as upon such person, the company, the directors, and officers of the company, and all other persons whomsoever.

102. The company in extraordinary general meeting may, by a resolution, remove any director before the expiration of his period of office, and appoint a qualified member in his stead.

Powers and Proceedings of Directors.

103. The directors shall hold board meetings periodically at the company's offices at such fixed times as shall, from time to time, be appointed by the board, and shall also hold special board meetings whenever the chairman or any two directors shall, by giving two days' previous notice in writing to each director of the time and place of meeting, convene the same, and every such meeting shall adjourn at pleasure.

104. Until the ordinary general meeting, to be held in the month of November, 1881, five directors shall form a quorum, and shall be enabled to exercise all authorities vested in the directors generally, and thereafter three directors shall form a quorum with like powers.

105. The directors shall elect one of their body to be their chairman, and determine or shorten the period for which he shall retain office, and such chairman shall be the chairman of the company during the same period, and on the termination of his office

Glenelg Railway Act.—1881.

office the retiring chairman, if still a director, shall be re-eligible to the office of chairman, and any vacancy in the office shall be supplied by the election of another director, and at every board meeting the chairman of directors, if present and willing to act, shall take the chair, and in his absence or on his refusal, and during any vacancy in the office, any director present may be chosen by the meeting to take the chair thereat.

106. All questions which may come before the board of directors shall be decided by a majority of the votes of the directors present, each such director, including the chairman, having one vote only, but in case of an equality of votes the chairman shall be entitled to an additional or casting vote.

Manner of voting at directors' meetings.

107. The directors shall provide for the safe custody of the seal, and it shall not be used except by the authority of the board.

Safe custody of seal.

108. Every deed or instrument to which the seal is required to be affixed shall be signed by two directors and countersigned by the secretary.

Manner of execution of deeds and instruments.

109. The following powers are hereby vested in the directors, that is to say, the directors are authorised:—

Powers of directors.

- i. To pay all costs, charges, and expenses whatsoever, including solicitors' and other charges, and whether preliminary or otherwise, that may have been incurred in and relating to the incorporation, amalgamation, getting up, and formation of the company, and the negotiations therefor, including all expenses in and about the procuring of the Act of Parliament authorising such amalgamation, the preparation of the memorandum and articles of association, and the registration and incorporation of the company under "The Companies Act, 1864."
- ii. To carry into effect all or any of the objects of the company as expressed in the memorandum of association, subject always to such control and sanction of the general meetings as in the memorandum of association and these articles is provided.
- iii. To exercise all or any of the powers given to the company by any special Act or Acts of Parliament relating to the company, or by the memorandum of association, subject always to such control and sanction of general meetings as in the memorandum of association and these articles is provided.
- iv. To determine the route of any railway or tramway.
- v. To provide suitable offices for the use of the company, and to do all acts necessary and proper for that purpose, and to take such offices on lease or otherwise.
- vi. To buy or take on lease, or otherwise acquire, any real property requisite, or deemed to be requisite, for the purposes of the company upon such terms as they may deem advisable, either for cash or on credit, and to give or grant any mortgage or mortgages for securing the whole or any portion of such purchase-money, and that either with or without the sanction of any general meeting of the company, and to re-sell, let, sublet, hire, or otherwise deal with the same, and to erect any building, whether for dwelling-houses, offices, stables, sheds, or otherwise, for the purposes of the company.
- vii. To purchase, construct, take on lease, or hire, all engines, carriages, cars, vehicles, conveyances, horses, machinery, plant, material, effects, and things necessary or considered to be necessary for the purposes of the company.
- viii. To appoint solicitors, bankers, managers, secretaries, engineers, surveyors, agents, and other officers, clerks, workmen, and servants, as may be required for the general management of the company as occasion may require, and from time to time to remove the present or any future solicitors, bankers, managers, engineers, surveyors, and secretary, all or any of them, or any other officers or servants of the company, and appoint others in their stead, and to fix the amount of remuneration to be paid to them respectively.
- ix. To enter into any special or other agreement or agreements for the purpose of carrying out or completing any of the purchases, arrangements, or objects set forth or implied in the memorandum of association, and to execute all deeds, agreements, receipts, and other documents they may think necessary, and for that purpose to use, when necessary, the company's seal.
- x. To institute, conduct, and compromise, or abandon, as they may think expedient, any legal proceedings relating to the property or affairs of the company.
- xi. To

To pay costs of formation of company, &c.

To carry into effect objects of memorandum of association.

But subject to control of general meetings.

To determine route of railway.
To provide offices for use of company.

To buy, lease, or re-sell, let or sublet, &c., for purposes of company.

To purchase, &c., machinery, plant, &c.

To appoint officers.

To enter into special or other agreement, &c., for purpose of company.

To conduct legal proceedings.

Glenelg Railway Act.—1881.

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| To submit to arbitration. | XI. To submit to arbitration any matter of difference between the company and any other person or persons. |
| To compound or abandon any debt due to company. | XII. To compound for or abandon any debt owing to the company, and to give time for payment thereof. |
| To authorise member of board to make, accept, and endorse bills of exchange, &c. | XIII. From time to time, and subject to such regulations as may be made by them, to authorise any of their board to make, accept, and endorse, on behalf and in the name of the company, bills of exchange and promissory notes. |
| And otherwise to draw, endorse, or accept bills of exchange. | XIV. To draw, accept, make, and endorse, any bill of exchange or promissory note that may be necessary for the purpose of the business of the company, which bills of exchange or promissory notes shall be drawn, accepted, made, and endorsed, respectively, by two of the directors, and countersigned by the secretary. |
| To apply to Parliament for further powers. | XV. From time to time, whenever they shall think it necessary or expedient so to do, to apply on behalf of the company for any Act or Acts of Parliament of the Province of South Australia, for empowering and better enabling the company to effect the objects and purposes of their undertaking, or any of them. |
| To give credit.
To take security. | XVI. To give credit to the customers of the company, and to take such security by mortgage of real estate, or otherwise howsoever, for any debts due to the company, as the directors may think fit. |
| To borrow from the company's bankers. | XVII. To borrow on behalf of the company—but only from the company's bankers—such sum or sums of money, not exceeding in the whole ten thousand pounds, as the directors may think fit, and also such further or additional or other sum or sums of money as may from time to time, and by the company in general meeting, be authorised to be borrowed. And for the purpose of effecting or completing any such loan or security as aforesaid, the directors may, in their discretion, make and execute any mortgage, bond, or other instrument or instruments in such form as may be agreed upon by them, under the common seal of the company, and under the hands of two of the directors and the secretary of the company for the time being, or may deposit by way of equitable mortgage, or otherwise, any of the documents or instruments of title of property of the company, and either with or without powers of sale, or other special provisions, and generally as they may deem advisable. |
| To mortgage or give bonds. | XVIII. All cheques upon the company's bankers shall be signed by two directors, and countersigned by the secretary. |
| To deposit as equitable mortgage. | XIX. To issue any of the shares of the company, whether forming portion of the original capital, or that by which it may from time to time be increased, wholly or partially paid up, and if partially, then to fix the amount to which the same respectively shall be paid up. |
| Cheques signed by two directors and secretary. | XX. And generally to exercise (subject to the power of the general or extraordinary general meetings of the company) the entire management, superintendence and control of and over the affairs of the company for the purpose of carrying out all or any of the objects of the company, as set forth in the memorandum of association, and for all or any of these purposes from time to time to make such rules, by-laws, and regulations, as they may think fit, for conduct of the business and affairs of the company, and the management of the property belonging to the company, and such rules, by-laws, and regulations from time to time to revoke, alter, or vary, and make others in their stead as to such directors may seem expedient. |
| To issue shares. | 110. The continuing directors may act notwithstanding any vacancy or vacancies in their body. |
| And to have entire management of affairs of company, subject to powers of general or extraordinary general meetings of company. | 111. Any director shall be disqualified from voting in respect of any contract in which he may be interested either directly or indirectly, whether individually or as a member of any company or partnership which has entered into a contract with the company, and if he does vote his vote shall not be counted. But the fact of any such director being concerned or interested in any contract with the company shall not incapacitate him from being a director, but only from voting on questions concerning such contract as aforesaid. |
| Provision for vacancies. | 112. The directors may delegate any of their powers to one of the board, or to committees consisting of such members of their body as they think fit, and recall or revoke such powers or any of them. Any member of the board so appointed or committee so formed shall, in the exercise of the powers so delegated, conform to any regulations |
| Director disqualified from voting in respect of contract in which he may be interested. | |
| Directors may delegate their powers to one of board to committees. | |

Glenelg Railway Act.—1881.

regulations that may be imposed on him or them by the board appointing him or them. The directors may also from time to time by any writing not under seal or by letter of attorney under seal, appoint any person or persons, jointly or severally, to act for the company either in or out of the said province, and for that purpose may delegate to the attorney or attorneys so appointed such of the powers hereby given to the directors as they, the directors, may think fit, and any such appointment may recall, revoke, supersede, or suspend.

113. A committee may elect a chairman of their meetings if no such chairman be chosen, or if at any meeting he be not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

Committee may elect chairman of meeting.

114. A committee may meet and adjourn as they think proper. Questions at any meeting of a committee shall be determined by a majority of votes of the committee-men present, and in case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Committee may adjourn questions to be determined by majority of votes.

115. All acts done by any meeting of directors or committee, or by any person acting as chairman or as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any member of such board or committee, or that they or any of them were disqualified, be as valid as if every such person or persons had been duly appointed and were or was duly qualified.

Acts done by directors valid, notwithstanding defect in appointment.

116. The directors shall cause minutes to be made in books provided for the purpose—

Directors to cause minute book to be kept.

I. Of the appointment of the officers made by them.

II. Of the names of the directors present at each meeting thereof.

III. Of all regulations and by-laws made by the board; and

IV. Of all resolutions and proceedings of meetings of the company and of the board respectively.

117. Any such minute as aforesaid, if purporting to be signed by the chairman of such meeting of a board, or by the chairman of the next succeeding meeting, or by a director present when such resolution was passed, shall be received in evidence in all proceedings, and, until the contrary be proved, every general meeting of the company and meeting of directors in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings held to have been duly passed and had.

Such minutes to be evidence.

118. Notice of every change in the situation of the registered office of the company shall forthwith be given to the registrar of companies.

Change in registered office to be notified.

119. The directors shall always provide that the name of the company shall be kept painted or affixed to or on the outside of every office or place in which the business of the company may for the time being be carried on, in a conspicuous position in letters easily legible, and also that the name of the company be engraved in legible characters on its seal, and that its name be mentioned in legible characters on all notices, advertisements, and other official publications of the company, and all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and on all bills of lading, invoices, receipts, and letters of credit of the company.

Name of company painted on outside of office, engraved on seal, and printed on all documents

120. Any resolution of the board, whereof notice shall have been given in writing to every shareholder in the Province of South Australia according to his last registered address, if approved of or sanctioned in writing (each signature to such writing to be attested by one witness) by members holding three-fourths of the shares in the company, shall be as valid and effectual as a resolution of the company in general meeting assembled, or as a special resolution, as the case may be, excepting resolutions providing for the repeal of any clauses of these articles, or of the memorandum of association limiting the liability of the members of the company, or for the dissolution of the company, or its amalgamation with any other company or co-partnership.

Certain resolutions of directors if assented to in writing by three-fourths of shareholders to be as valid as resolution of company.

Accounts.

121. The directors shall cause true accounts to be kept—

Directors to cause accounts to be kept.

I. Of the plant and stores and stock-in-trade of the company.

II. Of the sums of money received and expended by the company, and the matters in respect of which such receipt and expenditure shall take place; and

III. Of the credits and liabilities of the company, and of all matters necessary for showing the true state and condition of the company; and the accounts shall be kept in such books and in such manner as the directors shall think fit.

122. At every ordinary general meeting, to be held in the month of November, the

Statements of income and expenditure to be

Glenelg Railway Act.—1881.

laid before general meeting.	the directors shall lay before the company in general meeting a statement of the income and expenditure made up to date not more than two months before such meeting.
Contents of statement.	123. The statements so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it shall have been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters—every item of expenditure fairly chargeable against the half-year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting: And in case when any item of expenditure which may in fairness be distributed over several years shall have been incurred in any one year, the whole amount of such item shall be stated, with the additions of the reasons why only a portion of such expenditure is charged against the income of the year.
Balance-sheet to be made every six months.	124. A balance-sheet shall be made out every six months, and shall be laid before the general meeting of the company held in the months of November and May: and such balance-sheet shall contain a summary of the property and liabilities of the company.
Printed copy to be sent to registered address of every member.	125. A printed copy of such balance-sheet shall, previously to such meeting, be sent to the registered address of every member.
Every balance-sheet to be accompanied by report.	126. Every such balance-sheet shall be accompanied by a report of the directors as to the state and condition of the company.
Directors may make special arrangements as to accounts of company.	127. Any special arrangements in respect of the accounts of the company other than those before-mentioned may, however, be made by the directors.
<i>Audit.</i>	
Accounts to be audited once every half-year.	128. Twice at least in every year the accounts of the company shall be examined, and the correctness of the balance-sheet ascertained by two auditors.
Appointment, qualification, and retirement of auditors.	129. There shall be two auditors, one to be a shareholder in the company, and the other a non-shareholder in the company. Retiring auditors shall be eligible for re-election. The directors are hereby authorised to appoint the first auditors, who shall continue in office until the general meeting in November, 1882.
Their remuneration.	130. The remuneration of the auditors shall be fixed by the directors up to the general meeting, to be held in November, 1882, and thereafter the auditors shall be appointed, and their remuneration fixed by the company in general meeting, to be held in the month of November in each year.
Casual vacancy shall be filled up by directors.	131. Whenever any casual vacancy shall occur in the office of auditor, the directors shall forthwith supply the same subject to confirmation by the next ordinary general meeting of the company.
Provision in case no election.	132. If no election of auditors be made in manner aforesaid the retiring auditors shall continue in office.
Balance-sheet, &c., to be supplied to auditors, and they to have access to books, &c.	133. Every auditor shall be supplied with a copy of the balance-sheets, which he shall examine with the accounts and vouchers relating thereto, and shall also have a list delivered to him of all books kept by the company, and be entitled at all reasonable times to have access to the books and accounts of the company to verify such balance-sheets.
Auditors shall make a report upon balance-sheet and accounts, &c.	134. The auditors shall make a report to the members upon the balance-sheets and accounts, and also upon the register of transfers, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by the regulations of the company for the time being in force, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, and in case of having called for information from the directors, whether the information or explanations given by the directors shall have been satisfactory; and such report shall be read together with the report of the directors at the ordinary general meeting.
<i>Bankers.</i>	
All moneys, &c., to be deposited with company's bankers.	135. All moneys, bills of exchange, and promissory notes belonging to the company shall, as soon as conveniently may be after the same shall have been received, be paid and deposited to and with the company's bankers in Adelaide to the account of the company, and no money, bills, or note so paid or deposited shall be paid or delivered out by the company's bankers except on the draft or order of any two of the directors, countersigned by the secretary.
<i>Dividends, and to whom paid.</i>	
Directors with sanction of general meeting may declare dividends.	136. The directors may, with the sanction of the company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

Glenelg Railway Act.—1881.

137. No dividend shall be payable except out of the profits arising from the business of the company.

Dividend only payable out of profits.

138. The directors may, before recommending any dividend, set aside out of the profits of the company such sum as they may think proper as a reserve fund to meet contingencies or for equalising dividends, and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

Directors may set aside profits as a reserve fund; and may invest same.

139. The directors may deduct from dividends, payable to any member, all such sums of money as may be due from him to the company on account of calls or otherwise.

Deductions from dividends.

140. No dividend shall bear interest as against the company.

Dividend not to bear interest.

141. No dividend shall be paid to any shareholder not on the company's register of shareholders, and all dividends payable in respect of any share which, at the time of the dividend being declared, shall have no legal and registered holder on the company's register, shall accumulate for and be paid to the person who shall afterwards be registered in respect of such shares, and all dividends unclaimed for six months after having been declared, shall be invested or otherwise made use of by the directors in the business of the company, and shall be absolutely forfeited to the company.

Dividend only to be paid to registered shareholder, and manner of dealing with unclaimed.

Secretary, Solicitor, Engineer, and Bankers.

142 Mr. Richard Allen is the present manager, Mr. Cornelius Butler Mitchell the present secretary, Messrs. Stock and Jacobs the present solicitors, and the Bank of Adelaide, at Adelaide, the present bankers of the company.

Manager, secretary, solicitor, and banker.

The manager shall perform all such duties and services, and render such accounts, as the directors shall require.

Secretary's Duties.

143. The duties of the secretary are the following:—

- I. To keep the register of shareholders in manner following, that is to say—by keeping or causing to be kept a book or books, and from time to time in such book or books to enter the following particulars, that is to say:—The names and addresses of all persons or corporations being shareholders of the company, and also the number of shares to which such shareholders shall be respectively entitled, distinguishing each share by its number.
- II. To keep the register of transfers, and to make from time to time the proper entries therein.
- III. To keep and make the proper minutes and entries of the proceedings of the general meetings, and also the proper minutes and entries of the attendance of the directors.
- IV. To draw out and, where the case shall require it, to present to the proper officer or officers for signature, and himself to countersign, all such notices, certificates of shares, transfers, cheques, bills, notes, orders, deeds, and other writings, and, as clerk and secretary of the company and of the board of directors, to make the required entries of all such contracts, and generally to perform all such duties and services and render such accounts as the directors shall require.
- V. On demand to give receipts for scrip or share certificates left at the office of the company for purpose of transfer.

Duties of Secretary—To keep register of shareholders.

To keep register of transfers.

To keep minutes of general meetings and proceedings of directors.

To draw out all notices, certificates of transfers of shares, cheques, &c., and obtain signatures, and countersign same, and make all entries and render accounts that directors may require.

On demand receipts for scrip left in office to be given.

Notices.

144. Except where otherwise expressly provided by these articles, notices required to be served upon or given to the members in pursuance of the regulations of the company or otherwise, may be served either personally, or by leaving the same, or by sending them through the post in a letter addressed to the members at their registered places of abode as appearing in the register of shareholders, and every such notice left or posted as aforesaid shall be deemed to have been duly served on the day of leaving the same, or on the day after the day on which it shall be posted, although the person to whom it shall have been directed be dead or never receive the same.

Manner of serving notices.

145. Every member who shall be registered as resident out of the said province may leave a memorandum in writing at the registered office of the company, specifying some address in the said province to which notices for him shall be sent, and every provision in these articles contained, and every regulation of the company for the time being in force, and every resolution or order of the directors whereby respectively any notice shall be required to be served or given to the members shall as well as to members who shall be registered as resident in the said province, as to those who shall be registered as resident elsewhere be deemed to

Members resident out of province to leave address at which notices may be served.

be

Glenelg Railway Act.—1881.

Notices to members in respect of shares to which persons may be jointly entitled.

All notices to be advertised.

Any summons, &c., may be served through post.

Summons, &c., may be signed by any member of board of directors, managers, and other authorised officers, and need not be under seal.

Mode of dissolution of company.

From thenceforth directors to act as trustees.

After dissolution directors to sell property, and collect and convert assets into money, and receipts of two directors to be sufficient discharge.

Application of moneys.

Not to prevent company or shareholders acting under "The Companies Act."

Proof necessary on trial of action to recover calls

be duly complied with, and every such notice shall be deemed to have been effectually served or given, provided such notice be sent by post to each member having a registered address in the said province directed to such registered address, and to each member not having a registered address in the said province who shall have left such memorandum at the registered office of the company as before directed to the address specified in such memorandum, and it shall not be necessary to serve, give, or send any notice upon or to any other member whatsoever.

146. All notices directed to be given to the members shall, with respect to any shares which persons may be jointly entitled to give, to either of such persons named in the register of shareholders, and notice so given shall be sufficient notice to all proprietors of such shares.

147. All notices required by the said "The Companies Act, 1864," or by these articles to be given by advertisement shall be advertised not less than twice in one of the Adelaide daily newspapers.

148. Any summons or notice required to be served upon the company may be served by leaving the same or sending it through the post addressed to the company at their registered office.

149. Any summons, notice, writ, or proceeding requiring authentication by the company may be signed by any member of the board of directors, or other duly authorised officer of the company, and need not be under the common seal of the company, and the same may be in writing or in print, or partly in writing and partly in print.

Dissolution of Company.

150. If it shall be resolved to dissolve the company, or to sell the whole of the property of the company, either absolutely for the purpose of associating or amalgamating the company in co-partnership with some other joint-stock company, or it shall appear by the accounts and balance-sheet produced at any general meeting that one-fourth of the total nominal capital and assets of the company, including the amount of nominal capital which may have been actually paid and spent, and duly estimating and allowing for the value of all the assets and other property of the company for the time being, shall have been lost then, and at any time thereafter, it shall be lawful for an extraordinary meeting of the company, in the manner and subject to the provisions hereinbefore provided for the regulating of the proceeding of extraordinary meetings, to resolve that the company shall be dissolved, and a subsequent extraordinary general meeting of the shareholders shall be held for the purpose of considering such resolution to dissolve the company, and if such meeting shall confirm the said resolution, the company shall be thereupon dissolved, except that the provisions in these presents contained shall continue in force for the purpose of winding up and concluding the affairs of the company.

151. From thenceforth the directors shall be and continue to act as trustees for the purpose of winding up the affairs of the company, either absolutely or for the purpose of associating or amalgamating as aforesaid, and shall exercise such of the powers and authorities herein contained as shall be requisite to wind up the affairs of the company.

152. After such dissolution as aforesaid, the directors, as such trustees as aforesaid, or the major part of them, shall sell all the real and personal estates, property, and effects of the company, either by public auction or private contract, as they in their discretion shall think fit, and shall collect, get in, and convert into money all other the effects of the company. And for the effectually carrying out these purposes it is hereby declared that the receipts of such directors, or any two of them, shall be a sufficient discharge for so much of the moneys as shall be therein expressed to be received.

153. The moneys to arise by such sale and disposition of the estates and effects of the company shall be applied in paying and satisfying all the just debts and demands then existing against the said company, and any surplus that shall remain after satisfying such demands shall be divided amongst the several shareholders, their respective executors, administrators, and assigns, according to the shares respectively held by them.

154. Nothing herein contained shall operate to prevent the company, or any shareholder therein, from taking advantage of or acting under the provisions of "The Companies Act, 1864."

Evidence.

155. On the trial or hearing of any action or suit to be brought by the company against any shareholder, to recover any debt due for any call, it shall be sufficient to prove that the name of the defendant is on the register of shareholders of the company

Glenelg Railway Act.—1881.

company as a holder of the number of shares in respect of which such debt accrued, and that notice of such call was given to the defendant in pursuance of these articles, and it shall not be necessary to prove the appointment of directors who made such call, nor that a quorum of directors was present at the board when such call was made, nor that the meeting at which such call was made, was duly convened or constituted, nor any matter whatsoever; but proof of the matters first above-mentioned shall be conclusive evidence of the fact.

Inspection of Register and of Books of Account.

156. The register of members, and the books of account, except such as must of necessity be kept elsewhere, shall be kept at the registered office of the company, and subject to any reasonable restrictions as to time and manner of inspecting the same, shall be open to the inspection of the members during the hours of business, and the register of shareholders shall, subject to any such reasonable restrictions, be open to the inspection of any person, not being a member, on payment of the sum of one shilling, during the hours of business; but nothing herein shall entitle any member to inspect the account of any customer of the company, except subject to such conditions as the directors see fit to impose.

Books to be kept at office of company, and to be open for inspection on payment of one shilling.

General Indemnity Clause.

157. Every director, auditor, manager, and other officer of the company, his heirs, executors, and administrators, shall be indemnified out of the funds of the company against all costs, charges, damages, and expenses by reason of any covenant entered into, or act, or default done or made by him in any way in the execution of his office or trusts, except the same shall have been occasioned through his own wilful act, default, or culpable negligence.

Officers of company to be indemnified out of funds.

We severally agree to the foregoing articles of association.

Dated this day of , one thousand eight hundred and eighty-one.

Name.	Signature.	Address.	Description.	No. of shares held by each subscriber.	Witness.

SCHEDULE B.*Form of Statutory Declaration for Indorsement on Mortgage or Bond.*

I, , of , in the Province of South Australia, the secretary for the time being of the Glenelg Railway Company, Limited, do hereby solemnly and sincerely declare that the principal sum secured by the within written [bond or mortgage] was duly authorised to be borrowed pursuant to the provisions of the "Glenelg Railway Act, 1881," by a general meeting of the shareholders of the Glenelg Railway Company, Limited. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled "An Act to repeal an Act of this present session of Parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extrajudicial

Glenelg Railway Act.—1881.

extrajudicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths.”

Declared and subscribed at Adelaide in the Province of South Australia this
day of , 188 , before me.

J.P.

[or Notary Public.]

SCHEDULE C.

Form of Mortgage.

Glenelg Railway Company, Limited.

Mortgage, No. , £ .

By virtue of the “Glenelg Railway Act, 1881,” we, the Glenelg Railway Company, Limited, in consideration of the sum of £ paid to us by of do assign unto the said his executors, administrators, and assigns, the said undertaking [and, in case the loan shall be in anticipation of the capital authorised to be raised, all future calls on shareholders] and all the tolls and sums of money arising by virtue of the said Act, and all the estate, right, title, and interest of the company in the same, to hold unto the said his executors, administrators, and assigns, until the said sum of £ , together with the interest, payable half-yearly, for the same, at the rate of £ for every £100 by the year be satisfied.

Given under our common seal this day of in the year of our Lord, 188 .

Attested and registered by

Secretary.

Form of Bond.

Bond No. £ .

By virtue of the “Glenelg Railway Act, 1881,” we, the Glenelg Railway Company, Limited, in consideration of the sum of £ , to us, paid by of , do bind ourselves and our successors unto the said , his executors, administrators, and assigns, in the penal sum of £ . The condition of the above obligation is such that if the said company shall pay to the said , his executors, administrators, or assigns, on the day of , 188 , the principal sum of £ , together with interest for the same at the rate of £ for every £100 by the year, payable half-yearly in each year, then the above-written obligation is to become void, otherwise to remain in full force.

Given under our common seal this day of 188 .

Attested and registered by

Secretary.

SCHEDULE D.

Form of Transfer of Mortgage or Bond.

I, , of , in consideration of the sum of £ , paid to me by , of , do hereby transfer to the said , his executors, administrators, and assigns, a certain bond [or mortgage, as the case may be] No. in the register of the company, and made by the Glenelg Railway Company, Limited, to , and bearing date the day of 188 , for securing the sum of £ , and interest, after the rate of £ for every £100 by the year [if the transfer is made by deed, indorsed on the security, omit all the words after “assigns” and substitute “the within security”] and all my right, estate, and interest in and to the money thereby secured [if the transfer be one of a mortgage, add these words, “and in and to the undertaking, tolls, moneys, and property thereby assigned”] In witness whereof I have hereunto set my hand and seal this day of , 188 .

Approved and accepted

Secretary.

SCHEDULE

Glenelg Railway Act.—1881.

SCHEDULE E.

BY-LAWS.

1. Adelaide time is observed at all stations.
2. No passenger, unless having a proper free pass, will be allowed to take his or her seat in or upon any carriage used on the railway or tramway of the said company, or to travel therein upon the said railway or tramway without having first paid his or her proper fare, and obtained a ticket. Each passenger on paying his or her proper fare will be furnished with a ticket, which he or she is to forthwith produce whenever required so to do by any stationmaster or porter of the company, or by any guard or servant of the company in charge of the train, for their or his inspection, and if it be a return ticket he or she must allow it to be marked at once when required, and every ticket (whether single, return, or periodical) must be immediately delivered upon demand of any guard or other servant of the said company authorised to collect tickets, and any person committing any breach of this by-law shall be liable to a penalty not exceeding Five Pounds.
3. Every person attempting to defraud the company by travelling upon the railway or tramway of the company without having previously paid his or her proper fare, and obtained a proper ticket, or by riding in or upon any carriage of a superior class to that for which he or she has taken out a ticket, or by altering a periodical ticket, or using the periodical ticket or free pass of any other person, or endeavoring to use a ticket or free pass after the time or beyond the destination for which it was originally granted, without tendering the proper or excess fare, and giving up the ticket to the guard or other authorised person, or by attempting in any other manner whatever to evade payment of his or her proper fare, shall be liable to a penalty not exceeding Five Pounds, and in addition will be required to pay the full amount of fare.
4. No passenger shall capriciously hinder or delay any guard or servant of the company while in the performance of his duties, and no passenger shall be entitled to question the authority of any guard or servant purporting to be employed or authorised by the company.
5. Any person, not being a guard or servant of the company, impersonating or attempting to pass himself off as a guard or servant of the company, shall be liable to a penalty not exceeding Five Pounds.
6. Tickets belong to the company. A ticket, unless it be a single or a return ticket, can only be used by the person for whom it may be issued.
7. Any person on leaving any carriage refusing to produce his or her ticket to the guard or other servant of the company, will be required to pay the fare according to the class in which he or she travelled from the place whence the train originally started.
8. No passenger shall be entitled to re-book or take a ticket at any intermediate station for the purpose of continuing his or her journey in the same train as that in which he or she may have arrived at such station.
9. Passengers will only be furnished with tickets conditionally—that is to say, in case there is room in the train by which they wish to leave or return. Holders of periodical tickets shall have priority over holders of return or single tickets.
10. Tickets, whether single or return, shall be available and shall be used by passengers only to convey them to the station named thereon, or to any station short of that destination, provided the passenger by so using a ticket derives no advantage as regards fare. In no case, however, shall the “cheap” or “excursion” ticket be used at or for any other stations than those named thereon, nor on any other day than that for which they are issued. Any person using or attempting to use a ticket in violation of this by-law shall be liable to a penalty not exceeding Five Pounds.
11. No ticket will be recognised by any collector, guard, or servant of the company authorised to collect or examine tickets unless the number and names of the stations printed on such ticket are perfectly legible. The holder of any ticket which may be defaced or rendered illegible in any of the above particulars will be regarded as not having paid his fare, and will be liable to a penalty not exceeding Five Pounds.
12. Any person, not being duly authorised by the company, who shall sell, or lend, or offer for sale, or loan, his or her free pass, or periodical ticket, shall be liable to a penalty not exceeding Five Pounds.
13. No male passenger will be allowed to enter or remain in any waiting-room, or carriage set apart for the accommodation of females; and any person persisting in remaining in such room or carriage, after being warned to leave the same, shall be liable to a penalty not exceeding Five Pounds.
14. Any person who shall leave, or attempt to leave, any carriage or platform before or during the examination of the tickets therein, shall be liable to a penalty not exceeding Five Pounds.
15. No

Time observed.

No passenger entitled to ride without a ticket.

Attempting to defraud.

Delaying the company's servants, or questioning their authority.

Tickets not transferable.

Refusing to produce tickets.

Passengers not to re-book by same train.

Passengers supplied with tickets conditionally.

Tickets available to certain stations.

Penalty for defacing tickets.

Penalty for selling passes or periodical tickets.

Ladies' waiting-room to be kept private.

Leaving carriage with view of escaping examination of ticket.

Glenelg Railway Act.—1881.

Punishment for travelling outside, and entering or leaving train while in motion.

15. No person will be allowed to ride outside any carriage or vehicle on any railway or tramway of the company, under any circumstances whatever, except upon any platform which may be provided for that purpose; or get upon, or into, or quit, any carriage, vehicle, or platform, or step, while the train is in motion; and any person doing so, or attempting to do so, shall be liable to a penalty not exceeding Five Pounds.

Smoking prohibited.

16. Smoking is strictly prohibited in any of the railway sheds, yards, offices, waiting-rooms, or station premises, and in any carriages or platforms other than those specially set apart for the purpose; and any person found smoking in or on any carriage or platform other than that set apart for that purpose, or in any of the stations, sheds, yards, offices, or other premises shall be liable to a penalty not exceeding Forty Shillings; and any person persisting in so smoking, after being warned to desist, shall, in addition to the liability of incurring the penalty above described, immediately, or, if travelling, at the first opportunity, be removed from the railway premises and forfeit his fare and ticket. And any person continuing to smoke on the platform of any carriage set apart for smoking after he has been requested by any guard or servant of the company not to do so shall, notwithstanding anything hereinbefore contained, be liable to a penalty not exceeding Forty Shillings.

Dogs.

17. Dogs will be conveyed and charged for; but they will on no account be allowed to accompany passengers in the railway carriages or platforms. Any person taking a dog into any passenger carriage or platform without the permission of the stationmaster shall be liable to a penalty not exceeding Forty Shillings.

Punishment for abusive language.

18. Any person making use of insulting, abusive, or offensive language to or concerning any officer or servant of the company while in the execution of his duty, or any person making use of obscene, blasphemous, or offensive language in any carriage or upon any platform or premises of the said company, shall be liable to a penalty not exceeding Five Pounds.

Trespass.

19. If any person not being in the employment of the company, or without written authority, shall walk, ride, travel, or trespass upon any portion of the railway or tramway line, or on any land within the railway or tramway fences, or shall cross the line except at the authorised crossing places at which gates or bridges are provided, or at a station, such person shall be liable to a penalty not exceeding Five Pounds, and may be at once arrested by any servant of the company or by any one whom he may call to his assistance, and given into custody of a police constable.

Gratuities forbidden.

20. No gratuity is, under any circumstances, allowed to be received by the servants of the company, on pain of immediate dismissal.

Intoxication.

21. Any person found in a carriage, or upon any station premises connected with the railway or tramway, in a state of intoxication, or committing any nuisance, or wilfully interfering with the comfort of the passengers, shall be liable to a penalty not exceeding Forty Shillings, and shall immediately, or, if travelling, at the first opportunity, be removed from the carriage and premises of the railway or tramway, and forfeit his fare and ticket.

Passengers offensive.

22. Any person whose dress or clothing might, in the opinion of any guard or servant, soil the dress or clothing of any passenger, or any person who, in the opinion of any such guard or servant, might for any other reason be offensive to passengers, shall not be entitled to enter or remain in or upon any carriage or platform, and may be prevented from entering any carriage; and shall not enter any carriage or platform after having been requested not to do so by any such guard or servant; and if found in or upon any carriage or platform, shall, on the request of any guard or servant of the company, leave the carriage, upon his or her ticket, if previously collected, being returned; and if such person shall at such request refuse to leave such carriage or platform, he or she shall be at once removed therefrom.

Damaging carriages.

23. Any person cutting the linings, removing or defacing the number plates, breaking or defacing the windows, or otherwise wilfully or carelessly damaging any of the carriages belonging to the company, shall be liable to a penalty not exceeding Five Pounds, in addition to the payment for the damage done.

Allowing cattle to stray

24. Any person or persons wilfully or negligently allowing to stray any cattle, horses, sheep, or other animal on the railway or tramway, or any lands or premises of the company, shall be liable to a penalty not exceeding Five Pounds.

No touting allowed.

25. No carman, drayman, cabman, hackney coachman, porter, carter, or other person will be allowed to come into or upon the stations, platforms, lands, or premises of the company for the purpose of removing luggage or passengers either with or without a hand cart or vehicle, unless licensed so to do by the company, and required by a passenger, and specially engaged by him or her for such purpose; and no person will be allowed to come into or upon the premises of the company for the purpose

Glenelg Railway Act.—1881.

purpose of touting or soliciting custom or hire of any description whatever, unless licensed to do so; and any cabman, carman, drayman, hackney coachman, porter, carter, or other person evading or attempting to evade, or be guilty of a breach of this regulation, or refusing or neglecting to quit the premises of the company when thereto required by a stationmaster or other servant of the company, shall be at once removed from the premises of the company, and shall be liable to a penalty not exceeding Five Pounds.

26. Any person found bathing swimming dogs, or otherwise polluting water in any of the company's reservoirs or tanks, shall be liable to a penalty not exceeding Five Pounds.

Bathing in reservoirs prohibited.

27. Any person or persons, unless duly authorised by the company, who shall be found posting or sticking bills, &c., within or upon any of the company's property or premises, shall be subject to a penalty not exceeding Five Pounds.

Bill sticking prohibited

28. No person shall be entitled to require to be carried upon or along any part of the company's railways or tramways any sheep, cattle, horses, or live stock which, in the judgment of the company or any of their officers or servants, may be infected with any disease of whatever nature, and the company, or any of their officers or servants, may refuse to take any sheep, cattle, horses, or live stock suspected by them or him to be diseased. Any person causing or procuring diseased sheep, cattle, horses, or live stock to be carried, or offering or causing any of them to be offered, for the purpose of being carried upon any part of the railway or tramway, shall be liable to a penalty for every offence not exceeding Five Pounds.

Not required to carry diseased sheep or cattle.

29. If any person shall wilfully, knowingly, or negligently drive, or attempt to drive, or allow to stray into any railway or tramway station, yard, shed, or premises, or upon any lands, or within any fences, the property of the company, any sheep infected with scab or other disease, or any cattle, horses, or live stock having or suffering from any disease whatever, he shall be liable to a penalty for every such offence not exceeding Five Pounds.

Punishment for driving diseased cattle on railway premises.

30. If any goods, or produce, timber, or other merchandise, shall be brought into any station, either by the owner or consignee, or in the wagons or vehicles attached to the company's railway or tramway, and which goods or merchandise, in accordance with the company's tariff, it shall be the business of the owner, consignor, or consignee, to load into or discharge from the railway or tramway wagons or vehicles, and the owner, consignor, or consignee thereof shall refuse or neglect to load or discharge from the railway or tramway wagons or vehicles, such goods, within twelve working hours of their arrival at any station, the railway company, their officers and servants, may forthwith proceed to load into or discharge from the railway or tramway trucks, such goods at the risk of the owner, consignor, or consignee; and such goods shall be subject to the cost of such loading or unloading, as the case may be, in addition to the freight and other charges (if any).

Goods may be loaded or unloaded at owner's risk.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to enable the Liquidators of "The Port Adelaide, Queenstown, Alberton, and Portland Estate Tramway Company, Limited," to sell the said undertaking to William Rendall Cave and John Darling the younger.

[*Assented to, November 18th, 1881.*]

WHEREAS a joint-stock company has been registered and incorporated under "The Companies Act, 1864," by the name of "The Port Adelaide, Queenstown, Alberton, and Portland Estate Tramway Company, Limited," with the objects (amongst others) of constructing, maintaining, and working of tramways, for horse traction or steam power, in and between certain parts of the Town of Port Adelaide, Portland Estate, Alberton, Queenstown, and Cheltenham, and other places suburban or adjacent thereto, in such a manner as not to impede or injure ordinary traffic: And whereas an Act of the Parliament of South Australia, intituled the "Port Adelaide and Suburban Tramway Act, 1877," was passed in the forty and forty-first year of the reign of Her Majesty Queen Victoria, for empowering and better enabling the said company to carry out its objects: And whereas the said company has since the passing of the said Act constructed, maintained, and worked the said tramway at their own expense, and the said company is now being wound up voluntarily: And whereas the said company (in liquidation) have sold the property and plant of the said tramway to William Rendall Cave and John Darling the younger, both of Port Adelaide, merchants, who are desirous of working the said tramway at their own expense, and of obtaining an Act of Parliament of South Australia, empowering the said company to sell to the said
William

44° & 45° VICTORIÆ, PRIVATE ACT.

The Port Adelaide and Suburban Tramway Sale Act.—1881.

William Rendall Cave and John Darling, their executors, administrators, and assigns the said undertaking, and to vest in them all the rights and powers secured to the said company by the said "Port Adelaide and Suburban Tramway Act, 1877"—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly in the said province, in this present Parliament assembled, as follows :

Short title.

1. This Act may for all purposes be cited as "The Port Adelaide and Suburban Tramway Sale Act, 1881."

Rights of Tramway
Company transferred
to William Rendall
Cave and John Dar-
ling.

2. It shall be lawful for the said company, from and after the passing hereof, to sell their said undertaking to the said William Rendall Cave and John Darling, their executors, administrators, or assigns ; and upon the making of such sale, all the rights, powers, authorities, obligations, and liabilities of the said company in respect to the said undertaking shall be transferred to, vested in, and may be exercised by, and shall attach to the said William Rendall Cave and John Darling, their executors, administrators, or assigns, in like manner and to the same extent and effect as if such tramway was constructed by the said William Rendall Cave and John Darling under the powers conferred upon the said company by the "Port Adelaide and Suburban Tramway Act, 1877," and the said William Rendall Cave and John Darling, their executors, administrators, or assigns, had been named therein instead of the said company : And after such sale it shall be lawful for the said William Rendall Cave and John Darling, their executors, administrators, or assigns, to sell the said undertaking to any other person or persons, and thereupon such person or persons shall have the same rights, and be subject to the same liabilities, as the said company originally had and were subject to.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO
QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

Private Act.

An Act to authorise the Shareholders in a Joint Stock Company or Association, called "The Town and Country Bank, Limited," to carry on the business of Banking in the Province of South Australia, to incorporate such Shareholders under the style or title of "The Town and Country Bank," and to limit their liability.

[*Assented to, November 18th, 1881.*]

WHEREAS a Joint Stock Company, under the name, style, or title of "The Town and Country Bank, Limited," has been lately formed in the City of Adelaide, in the Province of South Australia, under and subject to the covenants, clauses, articles, conditions, stipulations, regulations, and provisions contained in a certain deed purporting to be the deed of settlement of the said company, and bearing date the twenty-ninth day of August, in the year of our Lord one thousand eight hundred and eighty-one, and the additions, alterations, variations, and modifications to be made in pursuance of such provisions: And whereas, by the said deed of settlement, the several parties thereto covenanted and agreed to be and continue associated together (until dissolved under the provisions in that behalf therein contained) as a Joint Stock Company or Association, under the name, style, or title of "The Town and Country Bank, Limited," for the purpose of carrying on the business of a bank of issue and deposit, the lending of money on cash credits, promissory notes, bills of exchange, or letters of credit, and on other securities, the dealing in money, bullion, specie, gold-dust, assayed gold, precious metals, and exchanges of and with

Preamble.

The Town and Country Bank Act.—1881.

with all countries, and in notes, bills, drafts, or other securities for money, and generally the transacting of all such other business as was then or should or might at any time thereafter be usual for establishments carrying on banking in all its branches, or dealing in money, bullion, specie, gold-dust, assayed gold, precious metals, exchanges, or in notes, bills, drafts, or loans, to do or transact, and the establishment of agencies or connections in relation to the said business in any part of the world considered desirable for furthering the interests of the company, or for promoting the convenience of merchants and others, and the granting of letters of credit, bills, and drafts on agents and banking connections abroad, and the establishment of a branch bank or branch banks in such part or parts of Her Majesty's dominions and dependencies as might be deemed expedient: And whereas it was by the said deed of settlement agreed that the capital of the company should be One Million Pounds, to be divided into and contributed in two hundred thousand shares of Five Pounds each, payable by the shareholders by instalments or calls to be made by the directors after notification by advertisement or by circular letters of such calls, and power is given to increase such capital by the creation and sale of new shares in manner therein expressed: And whereas by the said deed of settlement provision has been made for the management of the affairs and business of the said company by a board of directors, and the said deed also contains a provision giving a lien in favor of the company on the shares and dividends belonging to any shareholder becoming indebted or under engagements to the company, and authorising, in case of default on payment, the forfeiture of such shares and the sale thereof by the said board of directors: And whereas it is desirable to authorise the shareholders in the said Joint Stock Company to carry on the business of banking in the said province, to incorporate such shareholders under the style or title of "The Town and Country Bank," and to limit their liability—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

**Company
incorporated.**

1. Such and so many persons, corporations, and companies, as have already become, or at any time or times hereafter shall or may, under and in accordance with the covenants, clauses, articles, conditions, stipulations, regulations, and provisions contained in the said deed of settlement, and in any supplemental deed of settlement, duly made and executed, become holders or proprietors of shares of or in the capital for the time being of the said company shall, for the purposes aforesaid (but subject nevertheless to the conditions, restrictions, regulations, and provisions hereinafter contained) be one body politic and corporate in name and in deed, by the name of "The Town and Country Bank"; and by that name shall and may sue any person or persons, body or bodies politic or corporate, whether a member or members of the said corporation or not; and by that name may

The Town and Country Bank Act.—1881.

may be sued in all courts whatsoever at law or in equity, and may prefer, lay, and prosecute any indictment, information, and prosecution against any person or persons whomsoever, for any stealing, embezzlement, fraud, forgery, crime, or offence; and in all indictments, informations, and prosecutions, it shall be lawful to state the money, goods, effects, bills, notes, securities, or other property of the said company to be the money, goods, effects, bills, notes, securities, or other property of the said corporation, and to designate the said company or co-partnership by its corporate name, whensoever for the purpose of any allegation of an intent to defraud, or otherwise howsoever such designation shall be necessary; and the said corporation shall have perpetual succession, with a common seal, which may be altered, varied, and changed, from time to time, at the pleasure of the said corporation; and shall for all purposes be deemed to be a chartered bank within the meaning of any Acts or Ordinances now in force, or which may at any time or times hereafter be in force in the said province.

2. The said company, by and under the name of "The Town and Country Bank," shall be at liberty, within the said province and its dependencies, to carry on the business of a bank of issue, discount, and deposit, including the lending of money on cash credits, promissory notes, bills of exchange, or letters of credit, and on other securities; the dealing in money, bullion, specie, gold-dust, assayed gold, precious metals, and exchanges of and with all countries, and in notes, bills, drafts, or other securities for money; and generally the transacting of all such other business as now is, or shall, or may at any time hereafter be usual for establishments carrying on banking in all its branches, or dealing with money, bullion, specie, gold-dust, assayed gold, precious metals, exchanges, or in notes, bills, drafts, or loans, to do or transact; and the establishment of agencies, or connections in relation to the said business in any part of the world considered desirable for furthering the interests of the corporation, or for promoting the convenience of merchants and others; and the granting of letters of credit, bills, and drafts on agents and banking connections abroad: And the fourth section of "The Companies Act, 1864," and the fourth section of "The Companies Act Amendment Act," No. 22 of 1870-71, shall, so far as respects the said corporation, but not further or otherwise, be and the same are hereby repealed.

Powers to carry on
business of banking

3. The board of directors for the time being of the said corporation shall have the custody of the common seal of the said corporation, and the form thereof and all other matters relating thereto shall from time to time be determined by the board of directors of the said corporation, in the same manner as is provided in and by the said deed of settlement, or any such supplemental deed of settlement as aforesaid, for the determination of other matters by the board of directors of the said company; and the directors present at a board meeting shall have power to use the common seal of the said corporation for the affairs and concerns of the said corporation; and

Corporate seal.

The Town and Country Bank Act.—1881.

and under such seal to authorise and empower any person without such seal to execute any deeds, contracts, or agreements, and all documents required to be executed by, under, or in pursuance of the "Real Property Act, 1861," or any amendment or amendments thereof, and to do all or any such other matters or things as may be required to be executed and done on behalf of the said company, and in conformity with the provisions of the deed of settlement, and of any such supplemental deed of settlement as aforesaid, and of this Act within the said province; but it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the company, or for the appointment of an attorney or solicitor for the prosecution and defence of any action, suit, or proceeding.

Regulations of deed of settlement to be deemed to be the by-laws of the corporation.

4. The several covenants, clauses, articles, conditions, stipulations, regulations, and provisions contained in the said deed of settlement, and in any such supplemental deed of settlement as aforesaid, and the several regulations, alterations, and provisions to be made under, or by virtue, or in pursuance thereof, are and shall be deemed and considered to be, and shall be the by-laws for the time being of the said corporation (save and except in so far as any of them are or shall or may be altered, varied, or repealed by, or shall or may be inconsistent or incompatible with, or repugnant to, any of the provisions of this Act, or any of the laws or Statutes in force in the said province), subject, nevertheless, to be, and the same may be amended, altered, or repealed, either wholly or in part, in the manner provided in and by the said deed of settlement, and any such supplemental deed of settlement as aforesaid: Provided always, that any regulation, provision, or by-law made by the said corporation, either under or by virtue of the said deed of settlement, and any such supplemental deed of settlement as aforesaid, or of this Act in opposition to the general scope or true intent and meaning of the said deed of settlement, and any such supplemental deed of settlement as aforesaid, or of this Act, or of any of the laws or Statutes in force in the said province, shall have no effect within the said province.

Proviso.

Corporation may increase capital.

5. It shall be lawful for the said corporation, from time to time, to extend or increase their capital, for the time being, by the creation and disposal of new shares in the manner and subject to the regulations and provisions mentioned and contained in the hereinbefore in part recited deed of settlement, and any such supplemental deed of settlement as aforesaid.

Capital and shares to be personality.

6. The capital or joint stock for the time being, and all funds and property of the said corporation and the several shares therein, and the profits and advantages to be derived therefrom, shall be and be deemed personal estate, and be transmissible accordingly, subject to the regulations and provisions of the said deed of settlement, and any such supplemental deed of settlement as aforesaid.

7. It

The Town and Country Bank Act.—1881.

7. It shall be lawful for the said corporation, notwithstanding any Statute or law to the contrary, and notwithstanding any clause or provision herein contained, to purchase, take, hold, and enjoy, to them and their successors, in fee simple, or for any estate, term of years, or interest, any houses, offices, building, lands, or other hereditaments necessary or proper for the purpose of managing, conducting, or carrying on the affairs, concerns, and business of the said corporation; and also to take and hold, but only until the same can be advantageously disposed of, for reimbursement only, and not for profit, any freehold or leasehold lands and hereditaments, including leases from the Crown, or lands held under agreement from the Crown, and any real estate, and any merchandise, and ships, which may be taken by the said corporation in satisfaction, liquidation, or discharge of any debt due to the said corporation, or in security for any debt or liability *bonâ fide* incurred or come under previously, and not in anticipation or expectation of such security, and to sell, dispose of, convey, assign, and assure such houses, offices, buildings, lands, hereditaments, real estate, merchandise, and ships as occasion may require; and all persons, bodies politic or corporate, who are or shall be otherwise competent to sell, dispose of, grant, alien, convey, assign, or assure any such freehold or leasehold houses, offices, lands, and hereditaments whatsoever, as aforesaid, may sell, dispose of, grant, alien, convey, assign, and assure the same accordingly unto and to the use of the said corporation and their successors for the purposes aforesaid, or any of them; and it shall also be lawful for the said corporation to make any advance or loan of money to any proprietor of sheep in the said province, on condition of receiving in payment, or as security only, for such money, the wool of the next ensuing clip of such proprietor, and also to take and accept mortgages of sheep, cattle, and horses, without delivery to the said corporation, in like manner as any individual person is now by law allowed to do in the said province, by virtue of the provisions of the several Acts passed in that behalf; and the provisions of the said Acts, and of every Act to be hereafter passed with similar objects, shall be deemed and taken to extend to the said corporation in regard to the said liens and mortgages respectively in like manner to all intents and purposes as if the said corporation had been included by name in such Acts: Provided always, that (save and except as hereinbefore specially authorised) it shall not be lawful for the said corporation to advance or lend any money upon the security of lands, houses, or ships, or on pledges of merchandise, nor to own ships; and the said corporation shall not hold shares in its own stock, nor advance or lend to any shareholder in the said corporation any sum or sums of money on the security, whether collateral or otherwise, of his share or shares, nor invest, lay out, or employ, advance, or embark any part of the capital or funds of the said corporation in the purchase of any real or leasehold property whatsoever (save and except as aforesaid), nor of any share or shares of the capital stock for the time being of the said company, nor in trading or mercantile speculation or business whatsoever not usually considered as falling within the ordinary and legitimate purposes and

What landed property may be taken by the bank.

Proviso restricting powers.

The Town and Country Bank Act.—1881.

and operations of banking establishments ; but nothing herein contained shall be taken or construed to prevent the said corporation from taking security by the hypothecation of bills of lading for the payment of any bill or bills of exchange drawn against any shipment of gold, wool, tallow, ores, minerals, metals, or other colonial produce, or any other description of merchandise shipped for exportation, either to any port or place beyond the seas or from one port to another within the Australian territories: Provided, also, that nothing herein contained shall invalidate the lien or charge given by the deed of settlement to the company upon or over the shares belonging to any shareholder becoming indebted or coming under engagements to the company, or making default in the fulfilment of any covenants contained in the said deed of settlement, or any such supplemental deed of settlement as aforesaid, or shall prevent the company from holding the shares forfeited by such default for the purpose of sale, as provided in the said deed of settlement.

Liability of shareholders limited.

8. In the event of the assets of the said corporation being insufficient to meet its engagements, then and in that case the shareholders shall be responsible to the extent of twice the amount of the share or shares for the time being held by them respectively, that is to say—for the amount subscribed for on such share or shares, or so much thereof as shall not have been previously paid up, and for an additional amount equal to the amount so subscribed for; and no shareholder shall be liable beyond such extent.

Bank notes to be issued and circulated, and for what purpose.

9. It shall be lawful for the said corporation, for and during the term of twenty-one years from the first day of December, one thousand eight hundred and eighty-one, to make, issue, and circulate, at or from Adelaide aforesaid, and also at or from any city, town, or place in the said province in which they may open or establish any bank, branch bank, or agency, under or by virtue of this Act, or of the deed of settlement of the said corporation, or any supplementary deed of settlement made and duly executed, any bank notes or bills of One Pound or Five Pounds sterling each, or for any greater sum than Five Pounds sterling each, but not for any fractional part of a Pound; and from time to time during the said term of twenty-one years to re-issue any such notes or bills when and so often as the corporation shall think fit; but such privilege shall cease in case of the suspension of specie payments on demand for the space of sixty days in succession, or for any number of days at intervals which shall amount altogether to sixty days, within any one year, or in case the said corporation shall not well and truly maintain, abide by, perform, and observe all and every the rules, orders, provisions, and directions herein contained and set forth upon which the said corporation is empowered to open banking establishments, or to issue and circulate promissory notes.

Bank notes, how dated and payable.

10. All bank notes issued by the said corporation shall bear date at Adelaide aforesaid, or at the city, town, and place at and from which the same respectively shall be made and issued, and the same respectively

The Town and Country Bank Act.—1881.

respectively shall in all cases be payable in specie on demand at the place of date, and also at the principal banking establishment of the corporation at Adelaide, and the total amount of the promissory notes, payable on demand, issued and in circulation within the said province shall not at any time exceed three times the amount of coin, bullion, and public securities which shall for the time being be held by the said corporation within the said province, nor shall the proportion of coin be less than three-fourths of the amount of the coin, bullion, and public securities so held by the said corporation within the said province.

11. No branch bank or establishment of the said corporation, other than and except the principal banking establishment within the said province, shall be liable to be called upon to pay any notes or bills of the said corporation, other than and except such as have been originally made and issued at and from such particular branch bank or establishment.

Liability of branches to pay notes restricted.

12. The total amount of the debts, engagements, and liabilities of the said corporation, within the said province, whether upon bonds, bills, promissory notes, or otherwise contracted within the said province other than liabilities on account of the ordinary cash deposits of customers, and on account of bills of exchange drawn by or on behalf of the said corporation upon any banker or banking company, agent, or connection in the United Kingdom of Great Britain and Ireland, within the amount or value of remittances made to such banker or banking company, agent, or connection, respectively, to provide for the payment of the said bills of exchange), may extend to, but shall not in any case exceed, three times the amount of the coin, bullion, and public securities which shall for the time being be held by the said corporation, within the said province.

Amount to which general liabilities are to be limited.

13. All debentures issued, or which may hereafter be issued, by the Government of the said province, or of any other of the Australian Colonies where the said corporation shall have established a branch bank, such debentures being secured upon the general territorial or consolidated revenues of the colony where the same are or shall be issued, and every public debt contracted or guaranteed, or which may hereafter be contracted or be guaranteed by the Government of the said province, or of any such colony under the authority of the Legislature thereof, shall be deemed and taken to be public securities within the meaning of this Act.

What deemed public securities.

14. The discounts or advances of the said corporation within the said province to any director or officer thereof, with or without security, or on securities bearing the name of any director or officer thereof, as maker, drawer, acceptor, or endorser, shall not at any time, to all the directors or officers collectively, exceed in amount one-third of the total subscribed capital of the said corporation: And no director shall exercise his vote at a board meeting on any application for monetary accommodation in which it shall appear to

Discount, &c., to directors or officers.

The Town and Country Bank Act.—1881.

to the directors at such board meeting that he is directly or indirectly interested, further or otherwise than as a mere shareholder in the company.

No dividend to be paid out of capital.

15. No dividend shall in any case be declared or paid out of the subscribed capital for the time being of the said corporation, otherwise than out of the net gains and profits of the business.

Statement of weekly average liabilities and assets to be kept.

Quarterly statement to be published.

16. Periodical accounts, statements, and general abstracts of the assets and liabilities of the said corporation, so far as regards its transactions within the said province, shall be prepared, made out, and published in manner following, that is to say—the manager for the time being of the said bank shall, at the close of business on Monday of every week, prepare and make up a full and correct account and statement in writing, exhibiting the assets, property, credits, and securities respectively belonging to such bank, and also the respective debts, engagements, and liabilities of the same, in the manner and form and under the several heads particularly set forth in the Schedule to this Act annexed, marked A, and that from such weekly accounts and statements so directed to be made up as aforesaid, there shall be prepared on the last Monday of each quarter ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December in every year by such bank, a general abstract in writing of the average amount during such quarter of the respective assets, property, credits, and securities of such bank, and the debts, engagements, and liabilities of such bank, in the manner and form and under the several heads or titles specified and set forth in the Schedule to this Act annexed, marked B, to which respective quarterly abstracts shall be subjoined a statement exhibiting the amount of the capital stock of the said banking company or corporation for the time being, paid up at the close of the quarter for which such abstracts respectively shall be so made up, the rate and amount of the last dividend that may have been declared to the shareholders or proprietors, and the amount of the reserved profit at the time of declaring such dividend, and such respective quarterly abstracts and statements shall be verified upon the oath of one of the directors, manager, accountant, or clerk of the said bank, and shall within one month after the close of every such quarter, or as soon thereafter as may be practicable, be delivered to the Chief Secretary of the said province, for the time being, to be laid before the Parliament of the said province, and published in the *Government Gazette* of the said province; and if the said corporation shall neglect to keep such weekly accounts, or to make out, or to return or deliver such quarterly abstracts to the said Chief Secretary as aforesaid, or if any director, manager, accountant, or clerk, verifying any such abstract, shall deliver or return to the said Chief Secretary any false account or abstract of such averages, the said corporation shall forfeit for every such offence the sum of Five Hundred Pounds, and the director, manager, accountant, or clerk so offending shall also forfeit for every such offence

Penalty for neglecting to keep or make such returns.

The Town and Country Bank Act.—1881.

offence the sum of One Hundred Pounds, such penalties to be recovered respectively by action of debt in the Supreme Court or any other Court of competent jurisdiction, and copies of the deed of co-partnership and settlement of the said banking company or corporation, and every such supplemental deed attested by one of the directors, manager, accountant, or clerk for the time being of such company or corporation in Adelaide, aforesaid, to be true transcripts of the original deeds of co-partnership and settlement of such banking company, shall be filed in the Supreme Court of South Australia, by one of the directors, manager, accountant, or clerk of the said corporation, within thirty days from and after the day on which this Act shall commence and take effect, or as soon thereafter as may be practicable, and the same copies shall be open for inspection at all reasonable times by any person requiring to inspect the same on payment of a fee of One Shilling for each such inspection, and if any such director, manager, accountant, or clerk, shall omit or neglect so to file such attested copies of the deeds of co-partnership and settlement of the said banking company, or any such supplemental deed as aforesaid within the time hereinbefore directed for filing the same, he shall be subject and liable to a penalty of One Hundred Pounds, to be recovered by an action of debt in the Supreme Court, or any other Court of competent jurisdiction in South Australia, by any person who shall sue for the same. And as often as any alteration in or addition to the deed of co-partnership and settlement of such banking company, or any such supplemental deed as aforesaid, or the rules and regulations shall be made, a copy of such alterations and additions attested as aforesaid, shall in like manner be filed in the Supreme Court for the purposes and subject to the penalty hereinbefore imposed on the party neglecting or omitting duly to make such registry as aforesaid. And one of the directors, manager, accountant, or clerk of the said banking company in Adelaide aforesaid, shall, within thirty days from and after the first day of January in each and every year, or as soon thereafter as may be practicable, cause a true and correct list of the names of all the persons who shall be then existing proprietors or members of such banking company, registered as such in the register of proprietors, with their respective places of abode and descriptions, as appears on such register, and the number of shares held by them respectively, to be recorded on oath in the said Supreme Court, and the same shall be open for inspection at all reasonable times by any person requiring the same, on payment of a fee of One Shilling for each inspection. And if any such director, manager, accountant, or clerk shall omit or neglect to cause such list to be recorded in manner aforesaid, or falsify any such list, he shall be subject and liable to a penalty of One Hundred Pounds, to be recovered by an action of debt, in the said Supreme Court, or any other Court of competent jurisdiction in the said province, by any person who shall sue for the same. And every person whose name shall be so recorded as aforesaid, shall be considered, taken, and held to be a member or proprietor of the said banking company, and shall be liable to be sued as such, subject to the limitation hereinbefore

Copies of charter or deed of settlement to be recorded in the Supreme Court.

Penalty.

Copy of alterations in and additions to the deed of settlement or rules and regulations to be in like manner recorded.

Names of proprietors to be also recorded in the Supreme Court.

Liability of such proprietors to be sued.

The Town and Country Bank Act.—1881.

before provided for, until a new list of the names of the members or proprietors of such banking company shall be so recorded or filed as aforesaid, or until he or she shall have given notice in the *Government Gazette* of his or her retirement from such banking company: Provided, however, that nothing herein contained shall be deemed or construed to absolve any person from liability on account of any debts incurred by such banking company during the time such person remained a proprietor or member thereof, or to render any individual proprietor or member of such banking company liable for any debts incurred by the same, except so far as he or she may be liable under the provisions of this Act and the said deed of settlement, and any supplemental deed. And every oath required to be taken under the provisions of this Act may be taken before any Justice of the Peace, who is hereby authorised to administer the same, and any director, manager, accountant, or clerk, who shall take any false oath as to any quarterly abstract of averages, or any other matter or thing under the provisions of this Act, shall be subject to such pains and penalties as are by law in force at the time of taking such oath enacted as to persons convicted of wilful and corrupt perjury. And no action shall lie against any person for any offence committed against the provisions of this Act, unless the same shall be commenced within two years from the time the offence shall be alleged to have been committed: Provided always, that if in any case any matter or thing required to be done or performed under the provisions of this Act within any given period shall not have been so done or performed, the proof that it was not practicable to do so shall lie upon the party required to do or perform the same: Provided also, that no excuse shall be allowed for any such failure or neglect, unless it be clearly shown that the matter or thing required to be done or performed was done or performed as soon as was practicable.

Proviso.

Oaths to be taken before a Justice.

Penalty for perjury.

Limitation of actions.

Proof of inability to comply with Act in given time to lie on party.

Action or suit for calls.

17. Any action or suit may be brought by the said corporation against any shareholder or shareholders in the capital of the said corporation, to recover any sum or sums of money due and payable to the said corporation for or in respect of any call or calls made by virtue of this Act, or of the said deed of settlement, or any such supplemental deed of settlement as aforesaid; and in any such action or suit it shall not be necessary to set forth the special matter, but it shall be sufficient for the said corporation to declare and allege that the defendant or defendants is or are the holder or holders of such or so many share or shares in the capital of the said corporation, and is or are indebted to the said corporation in such sum or sums of money as the call or calls in arrear shall amount to for such and so many call or calls of such, or so many sum or sums of money upon such, or so many share or shares belonging to the said defendant or defendants, as the case may be, whereby an action hath accrued to the said corporation by virtue of this Act; and on the trial or hearing of such action or suit it shall not be necessary to prove the appointment of the directors, or any of them, who made such call or calls, or any other matters, except that the defendant

The Town and Country Bank Act.—1881.

defendant or defendants, at the time of making any such call, was or were a holder or holders of the share or shares in the capital of the said corporation, and that such call or calls was or were in fact made, and that such notice thereof was given as directed by the said deed of settlement in that behalf, and the said corporation shall thereupon be entitled to recover what shall appear due upon such call or calls.

18. Nothing herein contained shall prejudice or be deemed to prejudice any call made, or any contract, or other act, deed, matter, or thing entered into, made, or done by the said company, or the manager of the said bank, or other the person or persons acting in the conduct and management of such bank under or by virtue of the said deed of settlement, or any such supplemental deed of settlement as aforesaid, before this Act shall come into operation, but the same call, contract, act, deed, matter, or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed, and may be enforced in like manner as if the said company had been incorporated and authorised to carry on the business of a banking company before the said call, contract, act, deed, matter, or thing had been made, entered into, or done, and every contract heretofore made by or with any persons as trustees for or on behalf of the said company, or otherwise for its benefit, shall be performed by or to the said corporation, and the said corporation shall and may sue and be sued at law or in equity on every such contract respectively, and judgment shall be given or a decree shall be made in every such suit, in the same manner as if such contract had been made by or with the said corporation after this Act shall come into operation.

Transactions before
passing of Act.

19. The said corporation shall not be bound in any manner by any trusts, charges, or equitable interests, or demands affecting any share or shares of the capital standing in the name of any person or persons as the ostensible owner or owners, proprietor or proprietors, thereof, or be required to take notice of such trusts, or equitable interests or demands, but the receipt of the persons, or first of several joint persons in whose name or names the shares shall stand in the books of the corporation, shall, notwithstanding such trusts, or equitable interests or demands, and notice thereof, to the said corporation, to be a good, valid, and conclusive discharge to the corporation for or in respect of any dividend or other money payable by the said corporation in respect of such shares, and a transfer of the said shares by the person or persons in whose name or names such shares shall so stand, shall be binding and conclusive, so far as the said corporation is concerned, against all persons claiming by virtue of such trusts or equitable interests or demands, or otherwise: Provided always, that it shall be competent to the board of directors of the said corporation, if they shall think fit to do so, to withhold payment of the dividends on any such shares, and to refuse to sanction the transfer of such shares in any case in which the said corporation shall have had notice of any claim under an alleged trust, or equitable

Corporation not bound
by trust.

Provido.

The Town and Country Bank Act.—1881.

table interest, or demand, if any such claim shall appear to the said board of directors to be well founded: Provided also that nothing herein contained shall be deemed or taken to interfere with or abridge the right or power of the Supreme Court of South Australia, to restrain the payment of any dividend or other money payable by the said corporation in respect of any shares, or the transfer of any shares, or to direct the payment of such dividends or other money by the corporation, or the transfer of any shares by the person or persons in whose name or names they may stand, in such mode as such Court may think fit.

Officers of bank
although shareholders
may be proceeded
against criminally.

20. Every manager, accountant, or other officer, clerk, or servant of the said corporation shall (notwithstanding such manager, accountant, or other officer, clerk, or servant of such corporation shall or may be a shareholder, and have a joint interest in the property of the said corporation), be liable to be proceeded against criminally for any offence committed by such manager, accountant, or other officer, clerk, or servant, in respect of the property of the said corporation, in like manner and in all respects as if such manager, accountant, or other officer, clerk, or servant were not a shareholder and had no such joint interest.

Saving rights of Her
Majesty, &c.

21. Nothing in this Act contained shall be deemed to affect or apply to any right, title, or interest of Her Majesty, Her heirs or successors, or of any body or bodies politic or corporate, or of any person or persons other than and except such bodies politic or corporate and persons as are mentioned in this Act, and those claiming by, from, or under them respectively.

Interpretation clause.

22. Wheresoever in this Act reference is made to the said company, or to the said corporation, or to the said bank, the provisions of this Act shall, so far as applicable, be deemed to apply to all branches, sub-branches, agencies, and all establishments in the said province in connection with the chief office at Adelaide.

Title of Act.

23. This Act may, for all purposes, be cited as "The Town and Country Bank Act, 1881."

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES

The Town and Country Bank Act.--1881.

SCHEDULES REFERRED TO.

A.

Weekly Statement, showing the amount and nature of the Debts, Engagements, and Liabilities, and of the Assets and Property or Securities of the Town and Country Bank, from the 18 to the 18

Liabilities.	Amount.	Totals.	Assets.	Amount.	Totals.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
Notes in circulation { Not bearing Interest.....			Coined Gold and Silver, and other Coined Metals.....		
Bills in circulation { Bearing Interest.....			Gold and Silver, in bars and bullion		
Balance due to other Banks { Not bearing Interest.....			Public Securities		
Deposits { Bearing Interest.....			Landed Property		
			Notes and Bills of other Banks		
			Balances due from other Banks		
			Amount of all debts due to the Bank, including Notes, Bills		
			of Exchange, and all Stock and Funded Debts of every		
			description, excepting Notes, Bills, and Balances due to		
			the said Bank from other Banks		
Total amount of Liabilities	£		Total amount of Assets	£	

Manager.

Accountant or Clerk.

Place and date.

B.

*The Town and Country Bank Act.—1881.***B**

General Abstract, showing the average amount of the Liabilities and Assets of the Town and Country Bank, taken from the several weekly statements during the Quarter from the 18 , *to the* 18

Liabilities.	Amount.	Totals.	Assets.	Amounts.	Totals.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
Notes in circulation { Not bearing Interest			Coined Gold and Silver, and other Coined Metals		
{ Bearing Interest			Gold and Silver, in bullion and bars		
Bills in Circulation { Not bearing Interest			Public Securities		
{ Bearing Interest			Landed Property		
Balances due to other Banks			Notes and Bills of other Banks		
Deposits			Balances due from other Banks		
{ Not bearing Interest			Amount of all debts due to the Bank, including Notes, Bills		
{ Bearing Interest			of Exchange, and all Stock and Funded Debts of every		
			description, excepting Notes, Bills, and Balances, due to		
			the said Bank from other Banks		
Total amount of Liabilities	£		Total amount of Assets	£	
Amount of the capital stock paid up to the close of the Quarter					
ended 18					
Rate of the last Dividend declared to the Shareholders					
Amount of the last Dividend declared					
Amount of the reserve profits at the time of declaring such Dividend					

Place and date.

I, A. B., make oath that, to the best of my knowledge and belief, the foregoing abstract is a true and faithful account of the average amount of Assets and Liabilities of the above Bank during the period specified; and that the same was made up from the weekly statements thereof, kept in pursuance of the provisions of the Act of the

Sworn before me, at

, this

day of

, 18

C. D., Justice of the Peace.

Manager.

Accountant or Clerk.

(Signed) A.



